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APPENDIX
Volume II

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1869

PETER H. BEER, PHILIP C. CIACCIO, JOSEPH V. DIROSA, CLARENCE O. DUPUY, JR., JOHN D. LAMBERT, JR., AND JAMES A. MOREAU, Members of the Council of the City of New Orleans, Acting For and On Behalf of the City of New Orleans, *Appellants*

v.

UNITED STATES OF AMERICA
and
WILLIAM B. SAXBE, Attorney General of the United States, Individually and in His Official Capacity,
and
JOHNNY JACKSON, JR., ET AL., *Appellees*

Appeal from the United States District Court for the District of Columbia

DOCKETED JUNE 13, 1974
PROBABLE JURISDICTION NOTED OCTOBER 15, 1974

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[NOTE: The Opinion of the United States District Court for the District of Columbia is included as Appendix A; the Judgment of that Court as Appendix B; and the Notice of Appeal to this Court as Appendix C in the Jurisdictional Statement filed herein.]

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APPENDIX

Volume II

Jonathan A. Eckert (continued)

Cross Examination

By Mr. Halpin:

Q. Mr. Eckert, you stated, is it correct, that you were familiar with the black population and voter registration concentrations within the City of New Orleans prior to developing Plan 2? A. Yes.

Q. All right. Were you familiar with the location of the residences of the seven councilmen prior to developing Plan 2? A. Yes, sir.

Q. And you also said that you took into consideration placing each of these, the five district councilmen, in separate [440] districts in drawing the plans? A. Yes, sir.

Q. And that is because you assumed that the councilmen would not favor a plan in which they were opposed by another incumbent councilman, is that correct? A. Well, that taken together with the fact that one of the other plans we presented was the NAACP plan and that had been previously presented to the Council by the NAACP, so, yes . . .

Q. And rejected by the Council, is that what you are saying? A. Yes, essentially.

Q. And is it your assumption that the reason the incumbent councilmen wish to be in different districts was that as politicians, they liked to be re-elected? A. Yes, I guess that's possible, I'm sure.

Q. It is true, is it not, that all of the present councilmen are white? A. Yes, sir.

Q. In order to create a plan, is it—strike that. It is true that most of the councilmen, with the exception of Mr. Sapir, live generally near the Lake in New Orleans, is that correct? A. Yes, sir.

Q. Is it not true that in order to divide the City of [441] New Orleans into five districts in which each of these councilmen reside in a different district, that for practical purposes, it is necessary to draw these districts from River to Lake? A. Yes, sir.

Q. Is it not also true, given your knowledge about the black population concentration in the city, that the inevitable effect of doing this is to split up and dilute these large concentrations of black voting strength? A. Could you rephrase that question, I didn't catch it.

Judge Robinson: Do you want the Reporter to read it back?

Mr. Halpin: Please.

(Whereupon the Reporter read back the pending question.)

Witness: Diluted, vis-a-vis what?

By Mr. Halpin:

Q. Using your own definition earlier of dilution, if you will answer the question? A. Okay. Well, in terms of what existed—in other words, you see, there isn't the same option involved. I was looking at it in the sense of—all right—in shaping the reapportionment plan to go to census, I used, for example, District B. You have given a factor which is the existing district. All right, so therefore, in pursuing the change to meet the City Charter requirements as far as equality of popuulation, you have certain options where you can go to [442] increase the population. And in that sense, I think, it is clear cut. But to say that the inevitable result of going River-to-Lake, that black voting strength will be diluted, well, if you have a preponderance of blacks in one part and a preponderance of whites in one part, well obviously, the two would tend to cast lots that would be a dilution of a sort. But when I am think of dilution, I am thinking in terms of systematically adjusting the population so as to weaken the existing voting strength of the existing districts.

Q. Are you saying that your definition of dilution implies an intention, when you say, systematic an intention to discriminate against black voters? A. Well, no, I wouldn't think it would be necessarily an intention. I think the point I was trying to make was you have to have a given and I would take the given factor to be the existing district.

Q. All right. If you consider the given the factor the concentration of black population within the city and black voter registration which is reflected in various maps and exhibits, is it not true that when you draw districts from River-to-Lake, the inevitable result is to have districts in which blacks are generally in the minority, or at the most in a bare majority? A. Well, yes, I believe it is fair to say that.

Q. That's obvious, isn't it from the demographic features of New Orleans? [443] A. Yes, in talking in terms of concentration.

Judge Robinson: I would like to ask the witness a question. When you referred to majority and minority in your last answer, were you making a reference to total population within the district, or to voter registration within the district?

Witness: Well, I think, we are . . .

Judge Robinson: Or both?

Witness: I was thinking in terms of voter registration.

By Mr. Halpin:

Q. You also indicated that if one was to present a plan to the Council which they would seriously consider, and possibly pass, that it should to as great an extent as possible place incumbent councilmen in different districts, is that correct? A. Well, Councilman Moreau said not to worry about whether or not two or more councilmen were in the same districts, so . . .

Q. Yes, but you stated a moment ago, didn't you, that you assumed that you should put—if you are going to have the Council pass a plan, you should have different councilmen in different districts, is that correct? A. Well, I think it certainly was an alternative for the councilmen in case the assumption that they wouldn't want to run against each other is correct.

Q. And would you consider it that any party or parties presenting plans to the Council might also be very aware

of this [444] political factor? A. Yes, sir, I would think so.

Q. And don't you think that the NAACP plan may have well been a compromise which was the closest think that black people could do to have their representation without putting too many councilmen in one district? A. I don't know who the compromise was with and I really don't know the intent of the NAACP Plan.

Q. But you did state that you used the NAACP Plan as your standard in terms of—Well, the NAACP Plan had districts which were 53-54 per cent blacks and you had considered those not to be dilutions and used that as your standard for dilution in developing Plan 2? A. Well, my consideration was that the NAACP at that point was the only citizens organization which had put forth something and in my mind, I regard the NAACP as the spokesman for the black community, and therefore, when we are dealing with substantial black areas of the city, it seemed to make sense to follow them as a guide as far as that district went.

Q. It is true, is it not, that under the NAACP Plan there were several black districts with a majority black voter registration, whereas in Plan 2, there was only one. A. No, sir, it is my understanding that the NAACP Plan in District B had black voting majority, although District B, C & E had population majority.

[445] Q. And however, the voting percentages of blacks within some of the districts of the NAACP Plan was generally higher than the voting percentage of whites in other districts, besides District B, is that correct? A. I believe the black voting percentage in District C was higher and District E was higher.

Q. When you said that you used 53 or 54 per cent as your rough guidelines for dilution, or non-dilution, were you talking about voter registration or population?

Judge Robinson: Just a moment.

Mr. Treese: May it please the Court, that is not my memory that this witness said that.

Judge Robinson: Well, let's clear up the question as to what the witness did say.

Mr. Halpin: All right—I can rephrase the question.

Judge Robinson: All right.

By Mr. Halpin:

Q. On direct testimony, you referred to 53 or 54 per cent in referring to the NAACP Plan and in general testimony about dilution, were you talking about voter registration or population at that time? A. Insofar as the anti-dilution?

Q. Yes. A. Talking about voter registration.

Q. Have you lived in New Orleans all your life, Mr. [446] Eckert? A. I was born here. I moved to an area in Louisiana when I was six years old. I came back for college when I was 18 and I have been there since then.

Q. Are you aware that in the City of New Orleans there was a long history of preventing blacks from registering to vote on account of their race?

Mr. Treese: May it please the Court, I think this far exceeds the direct testimony of this witness; it's outside the scope of the direct testimony and I object to it.

Judge Robinson: Mr. Halpin.

Mr. Halpin: If I may respond, the witness indicated that he considered criterions of dilutions, or ant-dilution factors. We would submit that when one looks at dilution of black voting strength, one must look not only to the demographic factors, but also political realities, the debilitating effect of past discrimination upon existing voting patterns in black political organizations, and so forth and so on, and I am attempting to elicit from the witness testimony that would indicate that he did not consider these sorts of factors in avoiding the racial discrimination that he . . .

Judge Robinson: Maybe, I don't recall your question. I thought your question inquired of the witness as to his awareness of something, not what he considered.

Mr. Halpin: Yes, sir. Well then, the next question would [447] be whether he considered what he was aware of.

Judge Robinson: Did you want to add something, Mr. Treese?

Mr. Treese: No, Your Honor, I will stand on my previous objection.

Judge Robinson: The objection will be overruled. Now let's restate the question for the benefit of the witness so he will know exactly what he is called upon to answer.

By Mr. Halpin:

Q. All right, are you aware that there has been a long history in the City of New Orleans of preventing black people from registering and voting on account of their race? A. Well, I have never studied the matter historically. Of course, one hears all kinds of things. Since I have been working in the City Government, I haven't seen any overt activities of that type and as to how the registrar of voters or voter registration generally was required prior to that time. I can only tell you that you read things in the papers, such as Avery Alexander was thrown out of City Hall in the '60's. I was not aware at the time it was going on that it was going on and I don't know the extent. I don't know how persuasive the atmosphere was. I am really not qualified to answer that.

Q. All right, are you generally aware that the City of New Orleans has a long history of general racial discrimination. A. Well, it's a southern city and I am aware of the segregated schools, segregated eating places . . .

[448] Mr. Treese: May it please the Court, although the witness has answered, I would object to the question and answer on the grounds that it has absolutely no relevance to this case.

Judge Robinson: Well, the Court has ruled that it is relevant when it overruled your objection.

By Mr. Halpin:

Q. Did you consider in any fashion the long history of racial discrimination in the City of New Orleans in de-

vising Plan 2? A. Probably to the extent that I was concerned, perhaps, in my own mind about a polarization. My own perception of the city is that it is becoming more liberal, possibly due to the increase of black voting strength, possibly due to other factors, more liberal reaction on the part of the white community. These are only my assumptions, so therefore, that would be the only extent that I considered that fact.

Judge Waddy: Did that personal attitude of yours reflect itself in the plan?

Witness: I wouldn't say it was a personal attitude reflecting itself in the plan.

Judge Waddy: I understood you to say that you were considering your personal feelings?

Witness: Yes, I mean, in answer to that question, I didn't sit down and say, "What are my feelings to redistricting of the city?"

[449] Judge Waddy: Now my next question is whether or not that feeling you had reflected itself in the product that you produced?

Witness: Well, in the product that was produced was two districts, just like the NAACP and two districts . . .

Judge Waddy: I don't believe you've answered my question.

Witness: I am trying to. What I am saying is the plan, I don't know if it is a product of any feelings that I have.

Judge Waddy: All right.

By Mr. Halpin:

Q. When you were developing Plan 2, you were aware, were you not, that the Department of Justice had objected to an aborted Plan 1 as being racially discriminatory in purpose or effect? A. When we developed the four plans for Councilman Moreau, the Justice Department had overruled the first plan.

Q. Sir, at the time you were developing Plan 2, you did not know that Plan 1 had—Plan 1 had not yet been objected to, is that your testimony? A. Yes, sir.

Q. So you didn't—is it your testimony that, therefore, you didn't take into consideration the factors stated by the Justice Department in objecting to Plan 1 when you were developing Plan 2? A. Well, on rejection, the first objection, I think, was [450] rather general, so insofar as what the Justice Department said in their first letter of rejection, it wasn't available, but—and we didn't use it. However, what I am saying is when the thing was—when the letter of rejection was received by the City, we looked it over and just comparing what was said to the product of Plan 2, we were of the opinion that it conformed.

Q. But essentially, Plan 2 was developed before you studied the objections to Plan 1 by the Department of Justice, is that correct? A. Yes.

Q. But in your opinion, Plan 2 doesn't suffer from the same sort of racially discriminatory features that Plan 1 did, is that correct? A. No.

Judge Robinson: After you received the decision of the Department of Justice on Plan 1, were any changes made in what became Plan 2?

Witness: By the staff?

Judge Robinson: By any one.

Witness: Well . . .

Judge Robinson: Well, first, by the staff, did you recommend any changes?

Witness: No, that ordinance had been introduced prior to the rejection.

Judge Robinson: Were any changes made of which you are [451] aware in Plan 2 after receipt of the Justice Department's decision on them or in consequence of that decision?

Witness: Not that I can say in consequence of.

Judge Robinson: Very well.

By Mr. Halpin.

Q. Isn't it true that in developing Plan 2 as opposed to Plan 1, that really, your primary concern was the splitting or non-splitting of Algiers and that was really what you were concerned about in developing that second plan.

A. Well, besides splitting Algiers, I believe Plan 1 did sort of dilute District B's black voting strength in that it went into, first, Algiers, and secondly, the fourteenth ward.

Q. Were you concerned about that when you were developing Plan 2 prior to receipt of the Justice Department's objection letter to Plan 1? A. Yes, we thought it was a weakness of Plan 1.

Mr. Halpin: No further questions.

Judge Robinson: Any redirect examination?

Mr. Treese: One question.

Redirect Examination

By Mr. Treese:

Q. Mr. Eckert . . .? Yes, sir.

Q. . . . in your opinion, comparing the voting groups and statistics that you have studied with regard to the present [452] districting plan of the City of New Orleans, which is Plaintiffs' Exhibit 11, in comparing those statistics with these statistics you know as pertaining to the second plan, Plaintiffs' Exhibit No. 3, in your opinion, have the voting rights of any minority groups of the City of New Orleans been diluted as a result of the second plan?

Judge Robinson: Mr. Halpin.

Mr. Halpin: If you will—no, I will not object to it.

Judge Robinson: You may answer the question.

Witness: Oh. The existing districts vis-a-vis Plan 2?

By Mr. Treese:

Q. Right. A. I don't think there has been any dilution, no.

Mr. Treese: Very well.

Judge Robinson: Counsel, are you all finished with this witness—you have something further, Mr. Shurtliff.

Mr. Shurtliff: Very briefly, Your Honor.

Recross Examination

By Mr. Shurtliff:

Q. Mr. Eckert, do I understand from your response to Mr. Treese's last question that in comparing Plan 2 to the

present plan, you did not believe that Plan 2 affects a dilution of black voting rights? A. I don't think that there is any unreasonable dilution of District B, as I believe. I believe it has slightly [453] increased black voting strength. District E is slightly increased. I believe one district is virtually the same and two districts are slightly less.

Q. That is in comparison to the present plan, the plan under which the five district councilmen have been elected? A. Yes.

Q. Now is it your judgment that the present plan does not affect a dilution of black voting rights in New Orleans? A. Well, you are talking now in terms of what Mr. Halpin was talking about earlier, about in terms of concentration of black population. I believe we have made some sort of distinction between comparing A with something that exists and talking about dilution in that regard and talking about as Mr. Halpin suggested, concentration of population and dilution in that regard?

Q. Let's see if I can help you in this way. In your judgment, —help us—why would not the present plan of reapportionment in the City of New Orleans be acceptable today? Why need we change it? A. Well, first of all, the Charter requires that the population be more or less equal so it has to be changed to comply with the City Charter.

Q. Are there any other things in the current plan that need to be changed? A. Well, I don't follow what you mean by need to be [454] changed.

Q. Are the population percentages, black and white, or the compactness features, the adherence to ward lines, are those factors all acceptable in your judgment? A. Well, the thing is, the population has to be changed and if it has to be changed, then all those other factors automatically take effect.

Q. How about the racial percentages? A. Of the various districts?

Q. As presently constituted? A. Well, as I understand it, if they were legal when they were formed, then those

districts would retain their legal effect until such time as they are changed.

Q. And is it your judgment that they were legal when they were formed? A. Evidently.

Q. And had anybody ever told you that they were? A. That they were legal when they were formed?

Q. Yes. A. Well, I believe the court looked at one plan Council passed in '60 and rejected that and evidently the plan that was adopted set aside the plaintiffs because no one else challenged it, so I assume it was legal.

Q. And that was in 1960? A. Yes, I believe '60 or '61. [455] Q. Was that in a State court? A. Yes, I believe it did go to the State Supreme Court.

Q. You stated in response to questions by Mr. Halpin that a given consideration is the present plan, is that correct? A. Yes, I believe so.

Q. Why is that? Did anybody ever tell you that you had to start with what you had now? A. Well, it seemed like the logical place to start.

Q. Why? A. Well, there is a certain degree of identity of people, being in the same district for ten years plus the other factors that had been considered when that plan was made, such as the ward boundaries, precinct boundaries, natural boundaries, etc In other words, there was a continuity involved.

Q. Further you indicated that you stated development of Plan 2 pursuant to Councilman Moreau's request before the Attorney General's decision on Plan 1 had been received, is that correct? A. Yes, sir.

Q. Why did you do that, did Councilman Moreau indicate the reason why he wished you to start work at that juncture in development of a new plan? A. Well I think the press and a lot of civic groups had complained about it. I think Councilman Moreau had felt sort of in a bind because his name was on it and he in that sense had [456] nothing to gain or lose by the districts' looks, so I think it was sort of a political black eye for him. He wanted to

get something that was acceptable. That was my impression.

Q. Acceptable to whom? A. To the Justice Department, of course.

Q. And to the people of New Orleans? A. Well, I also made the assumption that anything that would be acceptable to the Justice Department, or the courts would ultimately be acceptable and accepted by the people. I mean, I don't think you can please all the people.

Mr. Shurtliff: I have no further questions.

Judge Robinson: Very well.

Mr. Halpin: If I may ask one or two questions on recross?

Judge Robinson: Very well, Mr. Halpin.

Recross Examination

By Mr. Halpin:

Q. You answered in response to Mr. Treese's question that you didn't believe that Plan 2 diluted the rights of black voters, is that correct? A. Mr. Treese, I don't believe asked that question. He asked me to compare present districts, which is that exhibit on the left, and Plan 2, which is the exhibit on the right.

Q. Is your idea of dilution of black voting strength a dynamic concept in that it implies blacks being sort of worse off than they were before? Does that play into your idea of [457] dilution?

Mr. Treese: I don't understand that question. Maybe the witness does.

Judge Waddy: Maybe the witness does.

Witness: I was about to say, really, I don't understand what you are saying, worse off?

Judge Robinson: All right, why not ask of the witness to give his definition of dilution.

Mr. Halpin: If you will, I will just withdraw the question and approach it a different way that I can make it clear to the witness.

Judge Robinson: All right, very well.

By Mr. Halpin:

Q. For instance, Mr. Eckert, you would say that in 1954 the schools in New Orleans were segregated and you would say today that they were either segregated or not segregated, and it would have very little to do with a change from one to the other. When you talk about dilution, are you talking about dilution in the same sense, or are you talking in terms of a change from one concept, you know, from one system to another? A. Well, . . .

Judge Robinson: Wait a minute, just a moment.

Mr. Treese: I'm sorry, Your Honor.

Judge Robinson: I saw you rise, Mr. Treese.

Mr. Treese: Yes, I know, I was going to raise the same [458] objection. Maybe the witness does understand.

Judge Robinson: Very well.

Witness: Are you saying that the schools were totally segregated in 1954 and in 1973 we have come now to a situation that there is only de facto segregation, and perhaps, minority would be less worse off? Is that what you mean by dynamic?

By Mr. Halpin:

Q. Yes, are you considering the concepts of segregation and dilution similar in using the examples that I just gave? A. I am trying to see if I can analogize that in my mind.

Q. Let me try another approach.

To your knowledge, has there ever been a black person elected to the City Council of the City of New Orleans? A. No, sir.

Q. All right. In your understanding of dilution of black voting strength, if blacks are no worse off in terms of political voting strength and ability to elect city councilmen, would you consider their votes to not have been diluted? A. If they were no worse off?

Q. Right. A. In other words, in a reapportionment plan, they had identical percentages and rearranged them—population to accommodate it? Okay.

It's hard to hypothesize something like that. Off hand, I would say the only answer is it would depend on what the [459] districts looked like; it would depend on whether or not I though a black could be elected in the district.

Q. And it would have nothing to do with how bad off blacks were in terms of voting strength to begin in the—in your concept of dilution? That would not be a relevant factor? A. No and using my own concept of dilution, I am using it as a start, the historical makeup and I guess, you can say, yes.

Mr. Halpin. That's all I have.

Judge Robinson: Gentlemen, have you all finished with Mr. Eckert? May he be excused from this trial?

Mr. Shurtliff: He may, Your Honor.

Judge Robinson: Mr. Eckert, you are welcome to remain, but you are also free to leave.

Witness: Yes, Your Honor.

(Witness withdrew from the stand, having been excused by the Court.)

Judge Robinson: Mr. Treese, your appointment in the District of Columbia Court of Appeals, is that 2:00 o'clock today?

Mr. Treese: Yes, Your Honor.

Judge Robinson: And I take it from what you said earlier that no other counsel involved in this trial is also involved in proceedings to be heard in that Court this afternoon?

Mr. Treese: That is correct.

Judge Robinson: After having reflected on your colloquy [460] earlier today, do you see any reason why this Court cannot continue this trial in view of the fact that you have Mr. Stoner as your co-counsel and others as your co-counsel representing the Plaintiffs in this case while you are taking care of your business in the Court of Appeals?

Mr. Treese: I see no reason why he can't. I would prefer to interrogate the next witness; if I do not finish, why Mr. Stoner will continue.

Judge Robinson: Well, if we can suspend until you return; of course, it goes without saying, that you will be excused to attend your business at the D. C. Court of Appeals.

At this point, the Court will stand in recess for five minutes.

(Whereupon the Court recessed at 12:00 o'clock noon.)

AFTERNOON SESSION

(The Three-Judge Court reconvened at 12:04 P.M.)

Judge Robinson: Mr. Treese, call your next witness.

Mr. Treese: Councilman Philip Ciaccio.

Whereupon,

Philip C. Ciaccio

took the stand, and being duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Treese:

[461] Q. Councilman Ciaccio, would you state your name and spell it, please for the Reporter. A. Philip C. Ciaccio (spelling out) C-i-a-c-c-i-o.

Q. What is your present residential address, sir? A. 7341 Spring Lake Drive, New Orleans, Louisiana 70126.

Q. And what is your occupation? A. I am Attorney-at-Law and I am a City Councilman.

Q. Member of the Louisiana Bar? A. Member of the Louisiana Bar, yes.

Q. Any other Bar Association? A. The American Bar Association, the New Orleans Bar Association, the Federal Bar Association.

Q. How long have you practiced law? A. I have been practicing law 23 years, 1950.

Q. In your capacity as a City Councilman, what is your present councilmanic district? A. I presently represent

District E and have represented District E since I was first elected to that office; I took office in May of 1966 and I am in my second term.

Q. Had you run for public office prior to that? A. Yes, I have run for public office several times prior to that. I first ran for the House of Representatives for the same geographical area in 1969 and lost. I also ran for Councilman in District E in 1961 and lost. I then ran for Representative from the 9th Ward in 1962 and won. And then I [462] ran for Councilman in 1963 and won. I missed one, I run for re-election to the House of Representatives in 1964 and was re-elected and then was elected to the City Council in 1965 and took office in '66. I was re-elected to the City Council in 1969, for a term beginning May of 1970. Each time that I ran for office, I ran from the same geographical district as is the present District E. I had never run on a city-wide basis.

Q. What wards are included within District E? A. District E presently is comprised entirely of the 9th Ward of the City of New Orleans; the boundaries are co-existent.

Q. Now we have had many maps presented and offered in evidence, Councilman Ciaccio, and they all portray District E in the same fashion as you now see (indicating on the map). How far out does District E actually extend to the East? A. District E is a very—extremely large geographical area; it comprises about one-third of the land area of the City of New Orleans. Eastward, it runs all the way to Saint Bernard Parish, which would be along the River, and also, runs to Saint Tammany Parish in the area along the lake. So it covers quite a few square miles and on the East, it is bounded by the two parishes that I have mentioned. It runs from the Lake to the River. If you were looking at the map to your right, which would be Plan No. 2, if you follow that land down there and then continued, instead of that dog leg that takes place there, and continued down that line, that is the present District B. It [463] starts at Franklin Avenue to the River and then continues on along that line which goes into Almonaster and then all the

way—well, that's the River line (indicating by pointing to the map), but I was going back up north.

Everything east of that is District E, and of course, it includes the very large growing areas, you know, and all that, which would be considered suburbs in other cities, but it is within the corporate city limit of the City of New Orleans.

Q. For purposes of graphic displays in this case, however, the vast majority of the population in District E exists within the confines of these exhibits, isn't that right? A. Yes, that is right. As you get further out, it becomes very sparsely populated at this time.

Q. Now Councilman Ciaccio, I believe you have just stated that the present District E—I am now pointing to Plaintiffs' Exhibit 3, which is the second plan—the present District E includes this area (indicating) which under present Plan 2 is included within District D, is that correct? A. That is correct.

Q. Who is the councilman who represents District D? A. That is Councilman John Lambert.

Q. Why was it necessary to adjust the population of your district in the redistricting of the City of New Orleans? A. Well, the gross pattern of the City has been that as District E has been expanded eastward, as a result of the last [464] census, I had approximately 18,000 people in my district above the norm. So it meant that District E had to be reduced by approximately 18,000 people. And in order to reduce the size of District E, the consideration came up as to how would that be done. It so happened that District E and District D had a contiguous line all the way from the River to the Lake and part of District D at one time was part of District E. The reapportionment in 1960 pushed the line over to the East as District E was becoming more thickly populated and areas being developed. In order to comply with our Charter requirement of having five districts of apparently equal numerical population, it was necessary that my district be reduced in size by approximately 18,000 people.

Q. Are you familiar, sir, with the population of your district in terms of racial division? A. Yes, I would say that my district as presently constituted has a racial makeup of almost identical 50 per cent white and 50 per cent black.

Q. All right. Are you familiar at all with the registration division by race within your district? A. My recollection would be that the approximate voter registration would have been 60 percent white and 40 percent black. One of the reasons, I believe, for the disparity in voter registration versus population is the fact that very large public housing projects are located in my district; it [465] has a usually high percentage of young black children compared to the total population in the area, so that they are not eligible to register to vote. But I would say that the registration as I have approximated it 60 to 40 per cent.

Q. All right, could you identify that housing project? A. That would be the Desire Housing Project which is located District E.

Q. Are you familiar with the population division by race under proposed Plan 2 within your district, District E? A. It would be, if I recall, correctly, I believe that the population would be a majority of black versus white. I think it would probably be 51 or 52 per cent black and 48 per cent white, or 49 per cent. It is very, very close, but it changed about two percentage points.

Q. In the process of running for the Council, in your last two successful attempts, have you had an opportunity to analyze your election results? A. Yes, I certainly analyzed them the day of the election and I have enjoyed a great deal of confidence and success in both the predominantly white and black areas of District E and have been fortunate to obtain an extremely high percentage of votes in the black—the identifiable black areas, as I'd say, ranging anywhere from 80 to 95 per cent, some precincts 99 per cent.

Q. That is 80 to 99 per cent of the black areas that [466] have supported you? A. That is correct.

Q. Now are you able to estimate what percentage of the white population in District E supported you? A. I would say anywhere from 60 per cent to—depending on what neighborhood, 80 per cent. The last time that I ran for office in 1969, I won by a very substantial majority; I think I had 22,000 votes against 5200 for my opponent. So I, obviously, received a very high percentage of votes in both areas.

Q. I wonder if you could describe your duties as a City Councilman? A. Well they fall into several major categories; one would be purely legislative; we are the governing body of the City of New Orleans and we do pass all ordinances and adopt motions and resolutions. We also are the appropriating agency of the City. We levy the taxes and we adopt the budget. Of course, the Mayor recommends the budget, but we are pretty much in the same status as, I would say, the Congress, in that we pass laws; we are in charge of appropriating the funds. We do not have any executive responsibility. We do not head any departments. We head what we call a strong Mayor-type government where the Mayor appoints all of the department heads and the City Councilmen theoretically are purely legislators. In addition to the function of legislating and budgetary, I [467] would say that a great deal of the time of the city councilman is taken up in work involving community activities, but I don't mean capital projects, social projects, social problems, housing problems, matters which might be considered part of the executive responsibility, but which, in fact, end up in the councilman's office whether the Charter says it should be there or not.

Q. Could you give us some examples of that?

Judge Robinson: What's the relevance of that, Mr. Treese?

Mr. Treese: If Your Honor please, opposing counsel has been inquiring as to the past segregation atmosphere in the City of New Orleans. They proposed to the Court that there is evidence in the recent past in the City of New Orleans of activties which tend to discriminate by race with

regard to all of these communities, and particularly with regard to the minority groups within the City of New Orleans. I will proffer this, Your Honor, that this witness has a very honorable record of working substantially outside his required duties as a city councilman in an effort to provide substantial assistance for the minority group within his district and as such, I would ask that this Court permit that evidence.

Judge Robinson: Very well. There was a pending question. You would save time if you restate the question.

Mr. Treese: Yes, Your Honor, I will restate the question.

By Mr. Treese:

[468] Q. Councilman Ciaccio, I wonder if you could give the Court some examples of the activities you performed for your constituents outside your required duties as City Councilman? A. The area which would be east of the Industrial Canal was substantially and very tragically devastated by Hurricane Betsy in 1965. It's a predominantly black area. There was a great deal of loss of property and loss of life.

In 1966 after I got on the City Council, a concerted effort was made to attempt to obtain urban renewal funds and all types of Federal assistance for this area. We had no enabling State Urban Renewal Legislation in the State of Louisiana. We were one of the few states in the Nation that had none. Trips were made to Washington by myself, citizens groups, both black and white, and other officials and we did obtain funding to the extent of around $350,000 for a feasibility study, although, in fact, we had no real legal basis for urban renewal projects at that time.

Subsequent thereto, I was quite active petitioning the State Legislature and participating with the then-Councilman Landrieu who is now Mayor, to have enabling legislation adopted which allowed the City of New Orleans to become eligible for urban renewal funds. That legislation was adopted. The only ongoing urban renewal project in the City of New Orleans is in my district in the 9th

Ward. We have been able to maintain many millions of dollars for funds for capital improvements in this area. [469] There were many, many meetings involving literally thousands of people who attended to explain the program, what it would do for the area, to rehabilitate the homes and to provide social advantages and economic advantages and I would say that probably 60 per cent of my time from 1966 to '70 was spent in problems involving the lower 9th Ward and the Desire Housing areas, and some other parts of the predominantly black areas of District E, which were in a tremendous need of improvements, both physical and social, resulting from expenditures and other activities that preceded my taking office. Two of the Federal Model Cities areas are in my district. I have worked very closely with the Model Cities Program. I have served on the board of directors of Total Community Action which was the New Orleans Community Action Program. I've been on the board of directors of the Social Welfare Planning Council and have attended many meetings with the KAP Neighborhood Organizations which were organized back in the middle '60's and which have produced a great deal of tangible advantages for the people who live in District E.

Mr. Treese: Thank you, no other questions on that point.

By Mr. Treese:

Q. Now Councilman Ciaccio, with regard to the Council's consideration of Plan 2, were you apprised of any alternative plans at that stage? A. Well, my recollection is that Plan 2 was introduced [470] by Councilman Moreau. I reviewed Plan 2 at the time that it was introduced and in my opinion, it presented a fair method of reapportioning of the City of New Orleans. I remember the only reason we were called upon to reapportion in the first place is because of the change in population patterns because some of the districts had become too small or too large with regard to numerical basis. I reviewed that plan and thought it was a fair one. If I recall correctly, there

was only one amendment made and that was to straighten out the line which now you see separating District B—District E and District D. There was one precinct which had a dog leg in it and that line was straightened out. But other than that, the plan that you see there, (indicating) is identical to the one that Councilman Moreau introduced.

Q. Were you aware of the plan presented by the NAACP which has been introduced as Plaintiffs' Exhibit 50? A. Yes, I was. I had been aware of it for several months. It had been first presented to us during the hearings that we had on the first redistricting plan.

Q. And did you personally have any objections to that plan? A. The main objection I had is as councilman from District E is that I thought that the line which ran along the River from west to east had no logical basis, in fact. It carved out a sliver of District E. It so happened that [471] that sliver which as I recall ran from Saint Claude Avenue to the River would have removed just about every white resident and white voter from that portion of District E which was located along the River, and it appeared to me to be a type of gerrymandering which I thought did not meet the guidelines of the Justice Department, the Voting Rights Act, or any other type of guidelines. Except for that particular peculiarity of the plan which existed in Exhibit E, the only other thing that I noticed of a dramatic change was that it placed Algiers in District E rather than District C and neither geographically or historically or otherwise had Algiers been a part of District D. I believe the plan that we finally adopted left District A and District B the same as in the NAACP plan and District E would have only been changed to remove the elongated line running east-west to the picture that you see on the second plan (indicating by pointing).

Q. (Counsel indicating on the map.) A. That's correct.

Q. In other words, it would have preserved the Mississippi River front under District E, Plan 2, and under the NAACP plan, it would have deprived District E of the

Mississippi River front? A. Yes, and I might say that the people living along that area actually have been the oldest residents of District E, the 9th Ward, actually began in that area there. There are [472] families that have been living there for several generations, whom they are probably over a hundred years old. There is a good deal of neighborhood identification with the 9th Ward as District E is called and there was in my mind no logical basis for removing that entire area from District E in the manner that was being proposed.

Judge Robinson: Mr. Treese, when you reach a point where it would be convenient to recess for lunch, you let me know.

Mr. Treese: I have, perhaps, two more questtions, then I think I can go to the Court of Appeals and let Mr. Stoner take over.

By Mr. Treese:

Q. Mr. Ciaccio, did you have deliberations with Mr. Lambert as your adjoining councilman of District D with regard to division of population to achieve the balance as required? A. Councilman Lambert and I spoke on possibly one or two occasions. I knew that 18,000 people had to be removed from my district. The logical method of doing it as far as I was concerned would be to add it on to Councilman Lambert's district which was contiguous to mine. The question then arose, how would you do that. The method in which you see it done in Plan No. 2, the one that is present before the Court, actually transferred from District E to District D an area that is compact that was contiguous to the then-existing District D, [473] population wise, it pretty much retained the same type of theoretically ideal ratio which then existed in District D which was 50 per cent white and 50 per cent black. The net effect of it was that it transferred to District D more whites than blacks, so that I ended up under that plan with a larger black population and voter registration than

I have under my present district. But it appeared to be a compact, logical way of doing it, both geographically, historically, neighborhood wise, etc. And we really had no controversy, fight over it; this was something that was basically what the staff recommended and I certainly agreed to it. There was one precinct that was a little different which we changed and that was the only change made.

Q. One last question, have you as councilman ever expressed the opinion or a vote on any of these plans with regard to whether or not two or more incumbent councilmen shall be forced to run within a single district? A. No, there has not been any overriding consideration. I gave no instructions to Mr. Eckert or to Mr. Pezant with regard to whether or not councilmen should be combined in districts or not. That plan does not combine any of the incumbent district councilmen, but I certainly—I never at any time gave any instructions that that should not be the case. If it came out that way, then, of course, fortunately or unfortunately, may the best man win. But I did not instruct [474/499] the staff to in any way draw up a plan which would not throw councilmen in an election against each other.

Mr. Treese: Your Honor, that is all.

Judge Robinson: We will suspend the examination of the Councilman at this point until you are able to return this afternoon, Mr. Treese.

Mr. Treese: Your Honor, I have no quarrel with Mr. Stoner protecting the Plaintiffs' rights on cross-examination in my absence.

Judge Robinson: Is that agreeable to counsel?

Judge Waddy: Do we understand from that that you have finished your direct-examination?

Mr. Treese: That is correct, Your Honor.

Mr. Shurtliff: We have no objections, Your Honor.

Judge Robinson: Very well, we'll resume after the luncheon recess with cross-examination of the present witness. Just before we take that recess, it might be helpful if counsel knew that one member of the Court has an en-

gagement that he must fulfill in connection with other litigation before the Court at 4:00 o'clock this afternoon and so it will be necessary to make the adjournment at 4:00 o'clock at that time.

At this point we'll stand in recess until 1:45 this afternoon.

(Whereupon the Court recessed at 12:35 P.M.)

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[500] MID-AFTERNOON SESSION

(The 3-Judge Court reconvened at 2:00 p.m.)

Judge Robinson: Mr. Shurtliff. Councilman, would you resume the stand, please.

(Witness resumed the stand.)

Cross Examination

By Mr. Shurtliff:

Q. Councilman Ciaccio, you testified that because of the population statistics, your District E had to lose some 17 or 18 thousand persons in order to achieve the ideal, is that correct? A. That's correct.

Q. Did you discuss with other councilmen, or any councilman in particular where those 17 or 18 thousand persons should go? A. Yes, there was one, or possibly two discussions with Councilman Lambert. Neither conversation took longer than, I would say, five minutes. The general tenor was whether or not the location of the areas of District E that would be transferred to District D, and we were both presuming that I would transfer, or the line would be transferred from E to D, whether it would come from the Riverfront area, or from the area that would be to the north of that map (indicating), which would be adjacent to the Lake. This was the extent of the conversation. It so happens that [501] both areas have a racial balance of almost identical proportions, that both of them —they are different economic levels, but it so happens

that in both areas, you have a combination of both Black and White residents. So that if you drew a line in either place, you would have pretty much the same effect as you see with the plan that's presently on the board.

Q. Was it your judgment that the 17 or 18 thousand persons that you had to give up from District E that the balance should be White or Black, or mixed, or what was your judgment along the line of racial characteristics of the group that would be dispersed to other districts? A. Well, since my district was basically evenly divided populationwise, it was my feeling that there should be no great disparity with regard to the transferral of either an excessively large number of White or Black voters, or residence in order to maintain what is theoretically the ideal situation, that is, with neither group being in the minority. I had a 50-50 population and if I transferred 18 thousand which would be close to that ratio, I'd be maintaining pretty much the same population ratio as presently in existence in District E. As it so happens, the way it was drawn up, there were more White residents and White voters transferred from E to D than there were Black.

Q. Was it your judgment that your district, District E [502] with its approximate 50-50 characteristic was an ideal district? A. I would say it was one of the fairest methods that I've known and it was certainly at that time theoretically meeting all the criteria of the law insofar as popultion was concerned. It was not by design; I inherited District E. I ran from that district and it so happened that the population was that way, and I personally thought that it would be fair to maintain it, at least in an approximate ratio, populationwise, which then existed.

Q. Was it your judgment that Districts A, B, C and D should also be maintained in their approximate racial characteristics? A. No, it was not. And . . .

Q. Why was it not? A. Well, Districts A, B and C were—well particularly B and C had different apportionment problems as I did, so they had to gain people. I really was not particularly familiar with the population

ratios in those districts, nor particularly familiar with the population ratios in District D. I was very familiar, by virtue of having been in office in District E for quite a number of years, as to what the population ratios were in my district, but I did not have any very strong feelings or opinions, or really a great reservoir of knowledge as to the racial makeup of the other [503] districts. It was my impression that District B, which is pretty much—well, it's been changed somewhat by the plan, but that District B had a majority of both Black residents and registered voters, even though Councilman Sapir, elected from that district in 1969, is White. I knew that District A had a majority of White population of voters. But if I had to give you the exact ratios, I could not have given them to you then, and probably, couldn't give them to you now unless you gave me a chart and I could refer to the figures.

Q. But did you not study the figures at the time you decided whether or not to support the redistricting plans cast in the form of ordinances? A. Yes, sir, I reviewed them.

Q. And did you review them from the perspective, from at least one perspective, of determining whether or not there had been a change in the racial composition of the districts other than your own? A. I observed them insofar as to making any individual specific determination as to exactly what effect they had on the other districts. It was not something that was indelibly impressed in my mind.

I would say that insofar as Plan Two was concerned, the one that is presently before the Court, that I do have, I think, a great familiarity with those figures at this time insofar as what the net effect was. But I would say that [504] primarily, my first attention was directed as to how would we rearrange the population in District E and then hopefully, how would we come up with a plan for the remainder of the City of New Orleans that would be fair and equitable. I did not see any great problem in doing

that for my district. I did see problems in other districts, but that did not specifically apply to District E because of the way it was constituted.

Q. So it was your judgment that the racial composition of District E should not be seriously changed by any redistricting plan? A. By virtue of the fact that it was then 50-50, almost mathematically that way, and theoretically, there was no minority in District E, that we had an equal number of Black and White residents in District E. I think this was the only one that was that way in the City.

Q. Do you know whether any other city councilmen had a similar judgment with respect to his own district? A. As to whether or not it should stay exactly the way it was?

Q. Right.

Mr. Stoner: Your Honor, I would have to object to this question. The witness can testify as to his own judgment. I don't know that he is competent to testify as to the judgment of other members of Council.

Judge Robinson: I thought the question was, "Do you know [505] whether . . . ?", was that it?

Mr. Shurtliff: Yes, Your Honor.

Judge Robinson: He may answer that question. If he doesn't know, all he has to do is say he doesn't.

Witness: I don't know exactly what was in the mind of the other councilmen, although . . .

Judge Robinson: You've answered the question.

Witness: I don't know exactly what was on their minds, sir.

By Mr. Shurtliff:

Q. Councilman Ciaccio, you stated that the NAACP Plan which you studied from your point of view had at least two things wrong with it; let us say, (1) that it split Algiers on a basis that was not historical and also dealing with the division of persons along the River from District E, is that correct? A. The NAACP Plan did not split Algiers, I don't believe; I think it placed Algiers in District D.

Q. I see, I'm ... A. Yes.

Q. I'm sorry, I misspoke. It combined Algiers in a fashion? A. Yes, it kept it as a unit, but placed it in District D where it had never been before, historically, or otherwise. Algiers had been originally in District C; it is [506] now in District A; it had never been in District B and I can see no reason why it would be combined with District D.

The other part which, frankly, I considered more objectionable from my own personal standpoint was the manner in which the east-west line was drawn along the Riverfront which was, apparently, an attempt to remove from District E an area which was just about, I would say, ninety percent White in vote in population and in voter registration and I could see no logic for drawing the line that way. It's like taking a sliver. It certainly violated the guidelines of compactness and reasonableness, and to me, that was one that didn't make sense, other than to remove those voters from District E.

Q. Algiers under the current plan of apportionment is in District A, is that not correct, sir? A. That is correct.

Q. How long has it been combined with the other portion of District A? A. I think since the last reapportionment, which I believe, was in 1960.

Q. And before that, sir, where was Algiers? A. In District C.

Q. And for how long a period was it in District C? A. Since the City Charter was adopted in 1954.

Q. Before that, there was not councilmen by districts? A. Before that, we had a commissioned council form of [507] government where the councilmen were elected city-wide and served as department heads in addition to being legislators; they were—one was head of the Parkways Commission; one was the head of Streets, one was head of Finance. But that form of government was done away with when the Home Rule Charter was adopted in 1954 and the present form of government was adopted by the people.

Q. And how many commissioners were there under that form of government? A. I think there were seven, the same number as we have now.

Q. They were all elected at-large? A. That is my—yes, they were all elected at-large, sir, from my recollection; I was rather young at that time, but I do recall that being the case.

Q. There have been two reapportionments under a 5-2 plan prior to this? A. No, one; this is the second reapportionment.

Q. But the system was first inaugurated in 1954? A. '54, that would have been the first time that the district council form of government was created. And then as a result of the 1960 census, there was a reapportionment and this would be the result of the 1970 census.

Q. But when we talk about history in terms of the 5-2 plan, or in terms of drawing the councilmanic districts [508] on the basis of wards, we are in no respect going back further than 1954, is that correct, sir? A. That would be correct insofar as councilmanic districts are concerned; although, insofar as ward representation is concerned, you go back eighty years. Our senators and legislators and representatives were elected by wards and have been since 1921, or prior to that time. That was the basis of representation in the state legislature and our City Charter set out the councilmanic districts by wards and precincts.

Q. At the present time, the House of Representative districts are not by ward, is that correct? A. They are designated by wards and precincts, but they cross ward lines. Some of them are totally within—for instance, in District E, we have two representatives that are totally within the Ninth Ward and we two representatives that we share with adjoining wards. It depends on the size of the wards; some wards have their own representatives; some have combined them as the lines were redrawn.

Q. You stated that the NAACP Plan in the way it dealt with District E created what you characterized as a sliver along the Riverfront, is that correct? A. That's correct.

(Mr. Treese entered the courtroom at this point and resumed seat at counsel table.)

[509] Q. And that it removed basically ninety percent White persons from District E and placed them in its proposed District D, is that correct? A. That is correct; it might have been even a higher percentage than that.

Q. In your judgment, was that a gerrymander? A. It appeared to be gerrymandering White voters out of District E, yes.

Q. And is that your definition of "gerrymandering", taking a block of voters of one race or another out of one district? A. If the line that is drawn has no apparent logic or reason, other than to transfer a certain group of individuals from one geographic area into another one, then the term that has normally been used when you do that is "gerrymandering".

Q. And if it has no apparent purpose other than to do that, to achieve that? A. This is correct. If there was some geographical reason, some historical reason, if there was any reason other than the only one that was apparent to me because of my familiarity with my district, I could characterize it otherwise; but I would have to say that that area has never been, councilmanicwise, drawn that way. The neighborhoods that were being removed have been traditionally joined together by [510] mutual interests, economic, religious, social, everything else, and to bodily remove them from an area where they been for an excess of a hundred years and move them to another district did not seem to have any particular logic behind it.

Q. Would you believe the compatibility of socio-economic or ethnic backgrounds forms a basis for keeping groups together? A. Well, you have a community of interest in that area involving churches, schools, civic activities, playgrounds, a whole gamut of normal inter-relationships between people who have lived in an area for years and years and I think that there is a community of interest between those people who live along the Riverfront and the people

who would be going north towards Florida Avenue. You have had a dramatic change in population patterns in my district in the past ten years with the line moving towards the River where that area has become predominantly Black, whereas ten years ago, it might have been 50-50. This is a population pattern, a trend that has been taking place.

Q. Then it's your judgment that the line is drawn in the proposed NAACP Plan to create a district of approximately 118 thousand, 5 hundred persons was not a sufficient purpose to override what in your judgment was a gerrymander? A. Let me state my position more succinctly. I'm not [511] accusing the NAACP of any nefarious purpose in drawing the line that they drew. The effect of drawing that line was to transfer an area that is basically ninety percent White into another district. The NAACP may have felt it had very good reasons for doing that and I know the officers and directors and have a great deal of respect for them.

On a purely logical basis, without getting into any dispute over race or gerrymandering, or anything else, I think I could sit down with them and say that I think the line as on the so-called Moreau Plan is a more logical line than the one they drew. Now reasonable men might differ over that. It isn't something that is a mathematical certainty, but in my best judgment as someone who has represented this area since 1962 in one capacity or other, which would be some twelve years, I did not feel that it would serve a useful purpose to extract and remove that entire area from District E. The people from the NAACP who drew up the plan may have thought it would have. We have a difference of opinion and I think that it could be left that way without me accusing them of intentionally trying to do something that was wrong. Certainly, you could draw up fifteen plans and never have everybody agree on every aspect of it. I don't question their integrity or their reasons, but I did question the effect.

Q. Councilman Ciaccio, have you ever observed or seen a redistricting proposal that generally ran east to west

[512] as opposed to north-south? A. Yes, I have seen some proposals than ran east-west.

Q. And what was your judgment as to those proposals? A. As far as I was concerned, there were two drawbacks with those type of proposals; (1) you were making a rather dramatic change in the existing general makeup of the district lines which theoretically have worked very well for both the White and Black residents of the City of New Orleans. It was an extreme departure from what had been our form of government insofar as the governmental structure is concerned since 1954.

The other objection that I had to it, and I can't recall any of them specifically, but under the present method of councilmanic districts, we have been able to avoid in New Orleans the polarization that has taken place in many other cities. For instance, in District E, and this would apply to many other districts, I have a combination of poor Whites and poor Blacks. I have middle-class Whites and I have middle-class Blacks, and I have fairly wealthy Blacks, and I have the finest and wealthiest Black subdivision in the City of New Orleans, all in District E. I canot afford to become parochial and say, "Well, I'm just going to vote for my White constituents and ignore the Black ones", or vice versa. You walk a very fine line to keep everybody happy, but as a result of it, you have a much broader perspective because you don't just represent one segment of the community.

[513] Now if you draw the line east-west, you'll end of having all White districts and all Black districts, although it would be very difficult to create two all-Black districts without some very unusual configurations because the housing patterns in New Orleans are extremely integrated. We just don't have housing patterns that you have one section that's all Black and one section that's all White, except for possibly some of the housing projects in some areas of the Lakefront.

In my own opinion as a public official, I honestly believe that the interests of all the citizens of New Orleans are better served by having a councilman representing all of the segments of the City, rather than one, and although it has caused me some person grief on occasions because, obviously, there are times when I would vote for appropriations for Black neighborhoods, and that has been the majority of times, when some of my White constituents got unhappy, and vice versa. The net result has been as long as they think you're doing it fairly, that we've produced some fairly good government insofar as the City of New Orleans is concerned and I really believe that the east-west type of redistricting would produce a type of polarization that New Orleans doesn't have and doesn't need.

Now this is a philosophical view point that I have and is one that I have made on the basis of my lifelong residence in the City; I've lived there with my wife and my [514] ten children; I've been in government for many, many years and I just think that I am entitled to have some opinions along those lines.

Q. Is it your judgment that in your District E that you, as you stated, has within its confines both races and various economic levels, that those persons, those groups have different interests, different desires from city government? A. They have—they all have the same desire to get the maximum city services that are possible. They all want the best schools and the best streets and the best playgrounds and the best garbage collection—everybody wants that. Then it's a question of how do you balance who gets what. I have some areas in my district that are way behind the times, that were neglected for many, many years and it's going to take a lot of catching-up for them to catch-up with some other parts of the City, and these areas happen to be basically Black, and we've been trying to catch-up. But I do think that I have been able to, for instance, vote for literally millions and millions of dollars of projects in my district which went solely into all-Black neighborhoods with-

out suffering political retribution by my White constituents because, in fact, I have tried to balance the interests of all parties and have also tried to educate those people who already have playgrounds and paved streets, et cetera, that it's fair and equitable to go into a low economic area and pave the streets [515] for free, which is the first time in the history of New Orleans that we've done that.

This is the philosophy of government. I don't know whether it's pertinent to this case, but it's one that I hold, and I really believe that if we had an all-Black council over the past four years, instead of an all-White council, we could not have voted one penny more of appropriations, we could not have voted as much appropriations for the Black areas of New Orleans as this Council did. I think the fact that we were constituted by accident and by election, we had the freedom to do some things, that possibly, an all-Black council could not have done.

Now again, we're getting into another field, but this is my strong feeling in this matter.

Q. I am not sure I understand the last, the all-White council has been able to devote a greater proportion of this City's assets to needs in Black areas than would in your judgment an all-Black council because the Black council might feel other pressures? A. I'll give you an example. If you had a councilman, a district councilman, in the east-west configuration, along the Lakefront who represented ninety-nine percent White and he was called upon every week to vote for funds to build health clinics, to pave streets for free, to do all kind of things in an all-Black neighborhood, sooner or later, his all- [516] White voters are going to decide that he wasn't the type of councilman they wanted and what was he doing for them. Now this is just a fact of political life. We have not had that type of voted reaction in New Orleans. We have had almost a unanimous vote on every appropriation and there has been a great magnitude in the past four years dealing with capital improvements in very poor Black neighborhoods and we're had no

reaction publicly from the White electorate. We've had some grumbling, but we've done, I think, a fairly good job of educating the people of New Orleans that the money was being spent where it was needed and it was proper to do so. And I think we were able to do this because we happen to represent a multi-racial constituency.

If you went to the east-west configuration and say, "We're going to create by design some kind of way, all-White districts and all-Black districts, and we're going to guarantee that we're going to elect Black councilmen because we have created an all-Black district", then I sincerely question whether he could get as much done if it were redistricted that way as was done by the present Council. Now I'm not trying to say that the Council should stay all-White and I don't think it will stay all-White. But I don't believe our job in redistricting required us to create irregularly-shaped districts solely for the purpose of erecting either Black or White and I think it's possible under the plan that [517] you have there (indicating by pointing) for Blacks and Whites to be elected.

Q. Is an east-west—an east-west plan would be irregularly-shaped districts in your judgment? A. Not necessarily, no. No I imagine you could come up with lines that would be fairly straight, if that were the criteria. You wouldn't have to zigzag all over the place. I think you could probably come up with districts that on their face would look as regular as those do. Yes, I'd agree with that.

Q. You indicated a few moments ago that another objection that you had had to east-west lines was that the lines that are currently operative have worked pretty well for Black and Whites in the City since they have been used, is that correct? A. I believe that the governmental structure of the City, insofar as the councilmanic districts that presently exist and as proposed, have worked fairly well for the City of New Orleans, both Black and White, yes.

Q. What do you mean by "worked well"? A. Well, presently and over for the—I would say—the period of

time that I have been in the city government, we have had what I would consider a high level of racial harmony and cooperation. We have also been able to implement social programs throughout the City which were somewhat revolutionary [518] in scope for a southern city, such as the Public Accommodations Act, which we adopted back in 1970; I think about the only one, possibly, in the South, there may be one in Atlanta. We have been able to do a great deal with the federal programs which require seed money from the City of New Orleans to enhance the health and the physical well-being of those Black areas which had been neglected for hundreds of years and we've done this without having a great deal of governmental, or other type of upheaval. We've had a fairly cooperative, calm progressive City. We think we're on the way to a new era. We have a man who is certainly extremely conscious of the rights of minorities. We have tremendously increased the participation of Blacks in the city government insofar as employment is concerned. It's probably up to forty percent of the total work force.

What I'm saying is the type of government that we presently have is working as well as any I know in the United States insofar as the problems of taking care of those things which need to be attended to. Now we don't have a monumentum but I think we've done a fairly good job.

Q. You stated that you believed that under the present plan, Plan Two, or the plan before the Court that Blacks could be elected? A. Yes.

Q. In any or all districts, or where? Would you [519] indicate in your judgment where Blacks could be elected? A. Well, if you look solely at numbers, and I believe we went through this dissertation a little bit in my deposition, District B under this Plan has a numerical preponderance of Blacks, both voters and population. Theoretically, if every Black voter voted for a Black candidate, then you would have a Black elective in District B. I don't think it will happen that way. I don't think there is a monolithic voting pattern in New Orleans today.

District E, where I reside, does not have such a tremendous disparity in voting strength that it is inconceivable that a Black candidate could not be elected from District E. It's possible. I think that the result of the election in Atlanta yesterday indicates that a Black candidate can win in a city which has a majority of White voters.

I'm not too familiar with the voting percentages, or the population percentages in Districts C and D under the new plan. But I think the only place where you have a tremendous White majority under this new plan is District A; it's probably like eighty percent, if I recall correctly. But the rest of them—theoretically, if the public voted on the qualifications of the candidates and the candidates who offered themselves, be they White or Black, met the requirements of the voters, they should get elected. And I think that this trend has been established in the City of New [520] Orleans by virtue of the fact that we have in citywide elections elected a judge for the Criminal District Court recently, a judge for the Fourth Circuit Court of Appeals, we have the president of the school board, all of whom are Black and who won at citywide elections where the White registration certainly was much larger than the Blacks. So I don't think the mere fact that you look at the percentages means that a Black candidate can't win if he's the best candidate.

Q. Was Judge Moriele (phonetic spelling) the best candidate? A. Was he? Yes, he was.

Judge Robinson: Counsel. I think you're getting a little far afield; let's stick to the issues in this case.

By Mr. Shurtliff:

Q. On what do you base your conclusion that persons—voters in New Orleans do not vote on a racial basis? A. Well, one of the conclusions was some of the historical facts that I recited just a moment ago. These are instances that have happened certainly in the last four to six years

where Black candidates have run on a citywide basis and have defeated White candidates. This is certainly an indication that the Whites are not voting as a block and the fact that in District B in the last councilmanic election, a White won for city councilman, although there were a majority of Black voters in District B who indicated that the [521] Blacks were not voting as a block in the City of New Orleans. And I don't believe you're going to see that happen unless some politician who takes a very antagonistic demagogic position actually forces either the Whites or the Blacks to vote as a block as a matter of reaction.

It will not happen by virtue of their present inclinations. It might happen if someone would tell the Black voters, as happened back in 1962, "I don't want your vote". If you do that, then certainly, they are not going to vote for. But right now everybody is seeking everybody's vote. No one can afford in the City of New Orleans to ignore the votes of either the Black or White community because you just can't get elected that way.

Q. You stated that in 1962, a candidate for mayor indicated to the Black community that he did not want their vote? A. That's correct.

Q. And was the result a block vote? A. Sure was. The Whites voted for him; the Blacks voted the other way and I happened to lose that election; I was running for councilman and I happened to be on the other side. I got most of the Black votes, but I didn't win the election. That's the last time that it's happened to my knowledge in the City of New Orleans.

Q. You indicated that a Black has been elected to [522] the Criminal District Court, is that correct? A. That's correct.

Q. In an at-large election? A. Yes, sir.

Q. Was that the first election in which that candidate had run? A. To my knowledge. He may have run for some lesser office, but that's the first time I recall. He was appointed to the Bench and then ran for election on a citywide basis and was elected overwhelmingly.

Q. Had he not run for the City Council at-large two years previous? A. No, I'm speaking of Judge Augustine. To my knowledge, he did not run for councilman at-large.

Q. I see. A. I'm speaking of Judge Israel Augustine, Judge of the Criminal District Court. Now Judge Moriele who is now a Judge of the Fourth Circuit Court of Appeals will be taking office shortly. He did run for councilman at-large in the election of 1969 and only lost by a few hundred votes out of hundreds more or thousands. I would say he only lost by—I'm guessing, but I think around—certainly less than a thousand votes.

Q. Was Judge Augustine supported by the White community in his election? [523] A. Yes, he was. When I say the White community, he was supported by the White —well, he had to be supported by everybody; he won a resounding victory and . . .

Q. Was he . . . excuse me. A. . . . and it had to comprise both White and Black voters to win by that large majority.

Q. Was he endorsed by White political organizations? A. Yes, he was.

Q. Was he endorsed by White political leaders? A. He was endorsed by White political leaders, by White civic leaders, by Black political leaders, by Black civic leaders. He was an outstanding individual who was endorsed and supported by a very wide range of people in the City, yes. And I think he was endorsed by the local newspapers.

Q. And he is on the Criminal District Court? A. Yes. That's the Court of General Jurisdiction. In New Orleans we have criminal and civil courts, and this would be the Criminal District Court.

Q. How many judges in the Criminal District Court in New Orleans are there? Do you know, sir? A. I think there are approximately—I believe there are ten. I could be wrong.

Q. And the position to which Judge Moriele was just recently elected, but has not yet assumed office, was what, sir? [524] A. Fourth Circuit Court of Appeals, that

would be our appellate court; that's the second highest court, right below the Supreme Court of Louisiana.

Q. And he has previously run for the City Council at-large? A. That's correct.

Q. An he lost that election? A. Yes. He had previously, also, been elected to the state legislature. He was appointed Juvenile Court Judge and then ran and won as a Juvenile Court Judge. So he has won to my recollection two city-wide elections.

Q. Was his election to the House of Representatives city-wide? A. No, it was not; it was from a district there. I think he ran from Ward One or Two. It was a small—it was a geographic district located at that time, I think it was in District C.

Q. And do you know, sir, what the racial composition of the House District from which Judge Moriele was elected was? A. It was predominantly Black.

Q. And were there other Blacks in the legislature at the time Judge Moriele was elected? A. I believe he was the first one, I think, who was elected in modern times. There are several now.

Q. Was Judge Moriele supported by White political [525] leaders. A. Yes, he was.

Q. Was he supported by White political organizations in his race now, that is, before the Criminal Court of Appeals? A. You mean for the Circuit Court of Appeals?

Q. Circuit—Circuit Court of Appeals. A. Yes, he was.

Q. Was he supported by White political leaders when he ran citywide for the at-large seat? A. Yes, he ran on—he was endorsed by at least two candidates for mayor, and possibly three, I don't recall; but I know he was on two tickets, if I recall correctly, one of which was Mayor Landrieu's ticket who is our present mayor.

Q. How many members of the Circuit Court of Appeals are there, sir? A. I believe there are seven.

Q. Doctor Spears is the president of the Orleans Parish School Board, is that correct, sir? A. He is a member of

the Orleans Parish School Board; there are five members. All are elected at-large. They select their own president. He has served as the president of the school board on at least two occasions. At least, they will elect you for a year at a time by their own board. It's a totally separate governmental agency in no way controlled by city government. They have their own taxing authority, but [526] they all run citywide.

Q. Is Doctor Spears Black? A. Yes, he is a Black educator.

Q. Are there other Blacks on the New Orleans Parish School Board? A. I don't believe there are.

Q. Was Doctor Spears endorsed by White political leaders in his campaign for the school board? A. Yes, he was; he was endorsed by White political leaders; the same gamut of support that I previously described, White and Black political, civic, and I believe by the local newspapers. He is an outstanding individual who has been involved in many, many things in the City of New Orleans and who is qualified for the position and who does live in District B, if I recall correctly.

Q. Now we have stated that he was endorsed—in talking about Judge Moriele, or Augustine, or Dr. Spears, that they were endorsed by organizations or by political leaders.

Is there a process in the political way of life in Orleans Parish, is endorsement a formal structure, is it a formal anointment, or could you characterize endorsement for us, sir, in likeness to—as to what the term means in the realities of political life in Orleans Parish? A. Well, up until a few weeks ago, which would apply to the current mayorality race taking place in the City of [527] New Orleans, it had been customary, and this was also true on a statewide basis, although predominantly in New Orleans, that an individual who qualified to run for mayor would also align himself with a group of candidates who were running for the City Council for the various parochial offices, clerk of the court, criminal sheriff, civil sheriff. We have probably fifteen positions in the City of New Orleans that

run at the same time as the mayor. And the history is that the mayorality candidate and his supporters would through some process pick what we call a ticket and they would mutually support each other. They would print a ballot which would be mailed to the voters stating "Chet Morrison endorses these various people" and to a great extent in past history, this influenced the way many people voted because if they voted for the mayorality candidate, quite often they voted for the people whom he said were going to be his team and each mayorality candidate generally get a full slate of candidates.

Quite often the same individual, such as councilman, might appear on more than one ticket. Now in the last election, I was on five, which was all the tickets, so I was very fortunate to be endorsed by all of them.

Now that system, apparently, has disappeared from the New Orleans scene because in the current elections, we don't have a ticket as such, the one that's going on right now, and apparently, there is tendency in New Orleans to [528] get away from this type of election process. In the last elections for the House and Senate, quite a few people who were endorsed by on one did get elected to the House and Senate and defeated many, many encumbents who were on tickets. It's a part of New Orleans political history which is changing and disappearing with the times, just as our political organizations have pretty much disappeared. We don't have them any more in New Orleans as we did fifty or sixty years ago, or twenty years ago.

Q. Do organizations put tickets together, or endorse candidates? A. They did.

Q. Do they at the present time? A. At the present time, I would say that there is no political organizations in New Orleans which has the ability to elect or unelect anyone. Now that may not ingratiate me with some of the local politicians, but that's my feeling.

Q. But that is not to say they no longer exist? A. You do have some relatively small organizations still in existence. But the political organizations to which you would

be referring, which existed in the days of the former-Chet Morrison who is now dead, and the former-Jim Comiskey (phonetic spelling) who is now dead, where you had two warring camps within the Democratic Party who were quite [529] strong and dominant with ward and precinct organizations. They have disappeared from the scene. There aren't anything like that any more. You might have a local group comprised of a very small number of people who interview candidates and comes out and says, "This is who we support," but they are of relatively minor import today in New Orleans. The people are voting based on what they see on television, what they read in newspapers, and what the candidate is able to convey in person. They are not blindly voting on the basis of a piece of literature that they get through the mail.

If I might say, one of the reasons for that is that we have a very strong Civil Service System in New Orleans now and the people are not beholding towards a list for jobs; you really can't control votes. People, as a result, vote the way they please, which was not true twenty, or thirty, or forty years ago.

Q. The political organizations that still exist, they endorse candidates and seek to have their support or their members support those candidates? A. Yes, that would be correct.

Q. The last time you ran, for instance, in 1969, did you have the endorsement of any such organization? A. I certainly did.

Q. How many would you say? A. Everyone in District E.

[530] Q. And how many would that be, sir? A. Well, there were mayorality candidates, five, and I was on each one of their tickets and then you had two or three organizations which claimed to have citywide support and I was on their tickets. There were several Black political organizations and I was on their ticket and I had a rather unique situation of being on just about everybody's ticket, maybe I've been a good councilman.

Q. You've indicated that there were several Black organizations in which you were on their ticket. Do you know the names of those organizations, sir? A. Yes, I could recite some of them; one of them is the Southern Organization for Unified Leadership, SOUL. I don't know whether I gave you the proper name, but I think I did; the Ninth Ward's Citizens Voters League which I have been very active with since I've been in office. There would have been several smaller organizations which represented specific neighborhoods, to tell you the names of them off-hand right now, I would know the names of their leaders, Angela Dunwatt (phonetic spelling) had an organization out in the St. Claude area, Mrs. Leotyne Luke who has been with the Ninth Ward Civic and Improvement Association some fifty years, her organization supported me. Those are the only ones I can recall off-hand.

Q. Those were Black organizations? [531] A. Yes, those are Black organizations.

Q. Why do you characterize them as Black organizations? A. Because their membership was entirely Black. They were comprised of—they were located in neighborhoods that were predominantly Black. They were organized for the purpose of trying to better the conditions of the Black residents of those neighborhoods. I think they were motivated socially and otherwise to improve the conditions of the people that they were trying to represent.

Q. Are their White organizations, political organizations, in Orleans Parish or the City of New Orleans? A. Yes, there are.

Q. And what interest did they try to secure or serve? A. You have some—well, right now there are very few left. If I had to say insofar as organized politics are concerned in New Orleans today, I would say there is more on the Black side than the White side. The RDO which was a very strong political organization for many, many years and as a citywide organization, does not have the same type of influence that it had when Huey Long was governor many, many years ago. It does not have the

same type of neighborhood orientation as would the Black organizations. You have some other, Alliance for Good Government which is a group of young men whose own interest, apparently, is to elect qualified people for public office, with no axe to grind.

[532] You have some civic associations who had branched out into doing the same thing, but the White political organizations as such have pretty much disappeared from the scene.

Q. How does one secure the endorsement of these kinds of political organizations? A. The procedure used to be that you qualified for office, put your money up to become a candidate, and then the organizations generally had meetings where they interviewed prospective candidates. They asked you your views, they knew something of your background, assessed your chances of winning or losing; if they were aligned with a mayorality candidate, try to determine whether you could help him get elected because this was quite crucial to them if they were looking for patronage in some form or other, and I'm certain there were family friendships, and other criteria that they followed. You went there with hat-in-hand, gave your speech, and hopefully, got their support if you wanted it. If you did receive it, you were quite often called upon to contribute to their expenses of printing a ballot, running an ad in the newspapers, TV commercials, et cetera.

Q. Was it expensive? A. Depending on the office that you ran for, it could be, and depending on how naive you were in politics. In the beginning it varied. As you run more, it gets less expensive [533] because you learn not to waste as much money.

Q. You indicated the last time you ran you had the endorsement of SOUL? A. That's my understanding, yes, I did.

Q. It's Black and is that the Southern Organization for Unified Leadership, I believe, is it not? A. Yes, it's located in the Ninth Ward in District E.

Q. Was their endorsement important to your bid for re-election? A. It certainly was helpful. I asked for it and was happy to receive it.

Q. Were they able to in your judgment deliver votes? A. Yes.

Q. Are the other organizations able to deliver votes?

Judge Robinson: How much more of this line of questioning, Mr. Shurtliff, do you have?

Mr. Shurtliff: Very few, Your Honor.

Judge Robinson: I think you're getting a little far afield now.

Witness: I think they all attempted to convince their constituency that I was the best candidate for the office and that they should vote for me. When you say "deliver", that's not a term, really, that I would care to use. I would like to believe that they convinced them that I had done a good job for four years in order to be in for four more years.

[534] Mr. Shurtliff: I have no further questions, Your Honor.

Judge Robinson: Very well.

Mr. Halpin: I will have no questions of this witness.

Judge Robinson: I'm sorry, I didn't hear you.

Mr. Halpin: I will have no questions of this witness.

Judge Robinson: Mr. Stoner, Mr. Treese, any redirect examination of this witness?

Mr. Stoner: May it please the Court, I would have one very brief question of the witness.

Judge Robinson: All right.

Redirect Examination

By Mr. Stoner:

Q. Councilman, you've referred to—I believe the expression was—"paved the streets for free", that you had been able to convince White voters that Black areas should have their streets "paved for free". What do you mean by that expression in the context of the system in New Orleans?

A. In New Orleans, the only method we have for paving residential streets is by a paving-lien program where the property owners are assessed. When we pave a street, they are required to pay a part of the cost of paving. This has been in effect since 1920. In all of the streets of the City of New Orleans that have been paved have been paved under that procedure. In the past four years, we were able with the assistance of urban renewal funds and model cities funds to go [535] into my district, in the lower Ninth Ward, and to pave residential streets at no cost to the abutting property owners by the City putting up ten percent of the total cost. This ten percent came from general bond funds which all of the residents of New Orleans voted on in a bond election.

So in effect, we took money from all of the citizens of the City of New Orleans and we put it into District E, even though it was ten percent, and we were able to pave the residential streets in this area at no cost to the property owners. Now we have not done this and are unable to do this in other part of the City by law. There was no public protest or outcry; there was some grumbling, but my recollection is that the Council voted unanimously for these appropriations and we are presently paving a very large number—and when I say "paving", Your Honors, I mean, subsurface drainage, concrete paving roadways and curbs, the type of streets that we don't have throughout the City of New Orleans. We still have a lot of dirt streets and a lot of streets that need to be improved without subsurface drainage. So when I'm speaking of "paving", I mean the type of street that you would find in the best residential areas in the City of New Orleans and we do not have sufficient City funds to go in and do this without assessing the property owners. We are doing this in my district and in those areas with the assistance of federal funds. We are quite happy to [536] have the federal funds because we could not have done it without it.

Mr. Stoner: Thank you. I have no further questions.

Judge Robinson: Does this complete the examination of the Councilman?

Mr. Shurtliff: I have no further questions.
Judge Robinson: May he be excused at this time?
Mr. Shurtliff: He may.
Judge Robinson: Councilman, you are excused.
Witness: Thank you.

(Witness withdrew from the stand, having been excused by the Court.)

Judge Robinson: At this point, gentlemen, the Court will stand in recess for five minutes.

(Whereupon, the Court adjourned at 3:00 p.m.)

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[537] LATE AFTERNOON SESSION

(The 3-Judge Court reconvened at 3:10 p.m.)

Mr. Treese: May it please the Court, in the break we have conferred on the Plaintiffs' side of the courtroom and in view of the stipulation reached this morning, we do not intend to call any other witnesses who are present today; we don't intend to call them tomorrow, either, but will rely on their testimony—deposition testimony.

We do have one more possible witness who, unfortunately will not arrive in the city until 8 o'clock tomorrow morning. It may be that at that time we will decide not to even use him in which case, our case will be closed.

Judge Robinson: In the event that you should decide to use him, we will let you reopen the Plaintiffs' case at that time.

Mr. Treese: Very well, Your Honor.

Judge Robinson: I take it that with that reservation, the Plaintiffs are resting at this time?

Mr. Treese: That is true, Your Honor.

Now one other point I'd like to make note of at present, in checking with the Court personnel, about the depositions which have been stipulated will be introduced as a joint exhibit, it appears that the Court has not received the original transcripts of all of those depositions.

Judge Robinson: That is correct.

[538] Mr. Treese: We will make inquiry as to that, we certainly have copies of all of them and will make them available to the Court as rapidly as possible.

Judge Robinson: And the Clerk is making efforts in that direction, too.

Mr. Treese: Yes, Your Honor.

Judge Robinson: Mr. Stoner.

(Both Plaintiffs' counsel conferred privately off-the-record.)

Judge Robinson: Mr. Shurtliff, will you call your first witness.

Mr. Shurtliff: May it please the Court, the Government intends as we indicated this morning to call two witnesses, live, neither one of whom are in the city at the moment. They are expected tomorrow. I apologize to the Court for not having them here. They were available at this time, but we had been unable to determine how many days into this trial after resumption we would be going with Plaintiffs' witnesses and one of our prospective witnesses is a mother of small children whom we didn't want to inconvenience her unnecessarily, if we could avoid that, and the other witness whom we intend to call is a member of the state legislature and is very busy and so we didn't want to bring him to Washington too early, and so we had expected to have them arrive this evening, neither one of whom has arrived as yet.

[539] Judge Waddy: Are either of these witnesses in the District of Columbia?

Mr. Shurtliff: Neither are, Your Honor, they are both residents of the City of New Orleans.

Judge Robinson: What is the materiality of the testimony to be given by the witness whom you referred to as the mother of small children?

Mr. Shurtliff: She is a political leader in the Black community in New Orleans.

Judge Robinson: I see, all right.

Mr. Halpin: Your Honor, if it may expedite matters, we had hoped the Court to allow the Department of Justice to put on their defense, first, and then only cover those areas that we felt were necessary, thereby shortening our case. However in—we are prepared to go forward. What we might suggest to the Court is that they allow Defendant-Intervenors to go ahead today and to call a witness, or two, and then tomorrow to allow the Plaintiffs to proceed and the Justice Department to proceed and then put on our case in major at the end of that proceeding, if that wouldn't be too confusing.

Judge Robinson: Certainly, it will not be confusing to the Court and it seems that's the most economical way from a time viewpoint to proceed.

We will let you proceed with that arrangement.

[540] Mr. Halpin: Yes, Your Honor. In that case, I would like to call Councilman DiRosa on cross-examination under the Rules.

Judge Robinson: While we are awaiting the arrival of that witness in the courtroom, I take it that the Government will be ready to proceed with any and all of its witnesses on tomorrow?

Mr. Shurtliff: That's correct, Your Honor.

Judge Robinson: Very well.

Mr. Treese: May it please the Court, I am informed that Councilman DiRosa has left. Frankly, I didn't know that he was needed this afternoon and he had an urgent matter in New York City.

Mr. Halpin: I just saw him just a moment ago.

Mr. Shurtliff: I think, Your Honor, he's trying to catch the ballgame; he's gone back to New York to try to catch the ballgame.

Judge Waddy: The ballgame isn't until eight o'clock.

(Laughter in the courtroom.)

Mr. Halpin: I didn't realize that. I did inform Mr. Stoner and Mr. Treese at the recess earlier today that I might call him . . .

Judge Robinson: Is the Councilman still here?

Mr. Stoner: I believe, Your Honor, that the Councilman has left. I do, however, have the address in New York and [541] told him that I would check with him tomorrow if Mr. Halpin intended to call him tomorrow.

Judge Robinson: Well, Mr. Halpin, I take it that you can make arrangements to let the Councilman know that you desire to call him as a witness.

Mr. Halpin: Yes, Your Honor, I thought I had informed his counsel earlier today at the break and that I would, possibly, call him; of course, I didn't know whether it would be today, or not.

Judge Robinson: With the telephone number that Mr. Stoner has, you gentlemen might get together and make arrangements for him to be on hand tomorrow. You have another witness, I take it, Mr. Halpin?

Mr. Halpin: Yes, Your Honor.

Judge Robinson: Could we then proceed?

Mr. Halpin: I'd like to call Johnny Jackson.

(Councilman DiRosa entered the courtroom at this point.)

Mr. Treese: Here he is, Your Honor.

(Laughter in the courtroom.)

Judge Robinson: Councilman, come forward.

Whereupon,

Joseph DiRosa

took the stand, and being duly sworn, was examined and testified as follows:

[542] Direct Examination

By Mr. Halpin:

Q. Could you state your name for the record, please, sir? A. My name is Joseph DiRosa (spelling out) D-i-capital-R-o-s-a.

Q. All right, Mr. DiRosa, are you presently councilman at-large in the City of New Orleans? A. Yes, I am.

Q. When were you first elected to that office? A. I was elected in 1962.

Q. And you were re-elected in 1966? A. No, in 1966, I was defeated by, I think, 268 votes out of 140 thousand, something like that.

Q. And you were elected for the second time . . . ? A. In '69.

Q. Prior to that time, did you hold any elective public office? A. No, I did not.

Q. Mr. DiRosa, could you indicate the amount of money that you spent on each of these occasions running at-large for City Councilman of New Orleans? A. I'm sorry, I didn't get the question.

Q. All right, could you state approximately how much money you spent running for at-large councilman in the City [543] of New Orleans in each of those three elections?

Mr. Stoner: Your Honor, I object to this question, I don't know the relevancy of this question.

Judge Robinson: What is the relevance?

Mr. Halpin: Your Honor, it's our position that with the long history of racial discrimination in voting and other aspects in the City of New Orleans that at-large elections particularly discriminate against Black voters who have less economic facilities for running at-large and that the at-large elections because of their additional costs is one of the factors which tends to discriminate against Blacks, and we would like to establish generally the high costs of running at-large in view of that history.

Judge Waddy: Are you suggesting that one of the defects of this plan is that is continues to permit at-large councilmen?

Mr. Halpin: Yes, sir, very definitely.

Judge Robinson: Mr. Stoner.

Mr. Stoner: Your Honor, I object to this line of questioning. I don't believe that is at issue. The only issue before this Court is whether or not a redistricting plan calling for five—this particular plan, Plan No. Two which calls for the redistricting of the City into five districts is

fair and equitable plan that applies to the Act of 1965. The at-large provision is a Charter provision of [544] the City of New Orleans and it is not before this Court.

Judge Robinson: Mr. Halpin, you only have that one question of this witness, am I correct?

Mr. Halpin: Well, Your Honor, as I understand Mr. Stoner's position . . .

Judge Robinson: Is that the only question you have on this particular issue?

Mr. Halpin: No, Your Honor.

Judge Robinson: Well, how much questioning do you have on this issue?

Mr. Halpin: The question—I'm sorry, Your Honor. On the economic question, yes; that is the only thing. I have many more questions which will go to the discriminatory nature of the at-large election and I . . .

Judge Waddy: How is that an issue in this case?

Mr. Halpin: Yes, sir, I . . .

Judge Waddy: You are attacking, as Mr. Stoner points out, a plan that has five districts; nothing is said in that plan concerning the at-large candidates—at-large councilmen. Now how do your questions that you propose now affect Plan No. Two which is before us?

Mr. Halpin: All right. It is my contention, Your Honor, that that is not all that is before this Court. It is my contention that in *United States* vs. *Georgia,* when a voting change is made, the Court must consider the entire plan. In [545] *United States* vs *Georgia,* there were some districts which remained unchanged, that is, the same configuration. The United States Supreme Court in that case found that it was proper to consider that under Section 5 of the Voting Rights Act. We would also indicate . . .

Judge Robinson: Could I intrude just a moment?

Mr. Halpin: Yes, sir.

Judge Robinson: If Judge Waddy and you, Mr. Halpin, will let me intrude for just a minute?

Mr. Halpin: Certainly.

Judge Robinson: Let me tell you what I have in mind which was behind my earlier questions to you. I think we have a legal problem here. We have witnesses present. It was my thought that if it's not going to take a great deal of time to take this evidence because, apparently, that's all that we can do with the remainder of the court day today and then you can brief and orally argue the legal questions later. Now if that arrangement is satisfactory with my colleagues and counsel . . .

Judge Corcoran: I would sustain Mr. Stoner's objection, I don't think it's relevant. We're not considering the Charter; we're considering this Plan. The Charter creates the at-large seat election.

Judge Robinson: Well, gentlemen, suppose I let you argue the question. Councilman, if you will be more [546] comfortable by resuming your seat in the courtroom, you may leave the stand at this point.

(Witness withdrew from the stand and resumed his seat in the courtroom.)

Judge Robinson: All right, Mr. Halpin, you can proceed in response to the questions . . .

Mr. Halpin: Your Honor, I would like the Court to permit the opportunity to present a brief at the end of the proceedings to detail my argument in better fashion. However, it is our position that Section 5 of the Voting Rights Act was intended to remove racially discriminatory voting procedure in certain selected southern states by the formula, of course, that's well known in the Act.

The problem that we're presented with here which the Court is raising under Section 5 is a very crucial question and it is one that I have had on other occasions in other district courts in Louisiana raised, and that is the situation that when part of a redistricting, or electoral arrangement is changed, does that trigger Section 5 of the Voting Rights Act and require then that the entire electoral arrangement then must be examined to determine whether it is racially discriminatory in purpose of effect, or does the Court simply

consider those narrow areas, which were different than they were before, in considering the racial discrimination.

I would suggest to the Court that if the Court would [547] take the latter, narrow construction of Section 5, that this would be contrary to the intention of Congress in enacting the Act. I think it would also be disastrous in terms of turning the clock back to no longer afford Black voters in those selected southern states with the Section 5 protections.

I will give you examples. Typically, for instance, in Louisiana, police juries which are similar to boards of supervisors, county governing bodies and school boards have been traditionally elected from single-member district wards. However, as towns within these parishes have grown in population, it will be frequent that in the only town, or several towns within the parish, there will be one multi-member district composed of typically, say, five or six members and then the remaining of the parish elective, say another six from districts. This was the consideration in *London* vs. *East Feliciana* in the middle district of Louisiana, as well as a number of other cases. If you would take—and the typical situation is that Blacks from the rural areas have moved into the towns within these parishes.

East Feliciana redistricted itself, as did many other parishes. If they, however, for instance, changed the number of members elective in this multi-member district from six to, say, eight in order to meet population numbers, but did not change the lines, is that a change under Section 5—you're electing, maybe, two more members—or given the next [548] situation, if the line is not changed at all, is this to be determined or should you look at the, you know, the entire effect?

Now in *United States* vs. *Georgia,* the question was raised, the identical question, relative to the, I think in this case it involved the Senate of the State of Georgia—it may have been the House of Representatives, but in any effect a 3-judge district court in Georgia determined that

this act, this redistricting act, must be submitted to the Department of Justice under Section 5. The Justice Department objected to several districts, and I can set this out in greater detail in my brief and attach the appendix of that case, if necessary, districts which had not changed their boundaries, yet the Department of Justice pursuant to Section 5 did enter objections to that, saying that we must consider the plan as a whole. The United States Supreme Court in *U.S.* vs. *Georgia* held that this type—held blankedly, of course, that the Justice Department was perfectly proper that this was a matter which was covered by Section 5. The language, of course, is not explicit; it does not go to this particular issue. But if the Court will examine the record in that case, you'll see that's exactly what the Supreme Court did, will see that that point was argued before the United States Supreme Court. So it's clearly—I would also indicate to the Court that in—there is, of course the problem of the [549] dual jurisdiction, when you start dealing with Section 5 in redistricting cases; whereas this Court has certain types of jurisdiction relative to Section 5, a Federal District Court in Louisiana might have slightly different sort of jurisdictions, and it is admittedly confusing as to where one stops and the others start.

However, I would suggest that this Court also has equity powers, that it is sitting as a District Court, Federal District Court in equity and that it would be inappropriate for this Court not to consider an obviously racially discriminatory feature of the play which is presented before it.

Note the Fifth Circuit's recent en banc decision in *Zimmer* vs. *McKeithen,* decided earlier this month, in which the Fifth Circuit found that at-large elections in the parish of each quorum were unconstitutional and impremissible. It's noteworthy for our purposes that in that case, there is technically a situation where the voting change should have been submitted to the Attorney General pursuant to Section 5, but never was and have proceeded in normal litigation in the Federal District Court in Louisiana. The

Court en banc in its opinion noted this, and said that, "We're just simply not going to be blind to this; we're not going to set up different standards under the Fourteenth Amendment than we are under Section 5.

I would suggest to this Court that even if it would [550] find that Section 5 doesn't cover the situation, that it certainly has equity power to consider the question of the constitutionality under the Fourteenth Amendment of the at-large districts. So I would suggest to the Court that this is very much within the jurisdiction of the Court; it's very much required that this Court consider that issue, as well as the issue of the narrow configuration of the districts. Also, we would consider that one must consider the total impact of the plan and where we have suggested in our opening argument that you sort of have a White quota, they have sort of two up on us, that automatically two White are elected before a Black even gets a chance to be elected under a districting arrangement, that the total effect of the plan must be determined by this Court under the proviisons of Section 5 which says, ". . . racially discriminatory in purpose or effect." It might well be that these same districts, if they were only five members might not be racially discriminatory in effect, but when you had to it two Whites, it may well be racially discriminatory in effect, in that by configuration of the districts or considerations of the electoral arrangements that Blacks are automatically excluded from full and meaningful participation in the process.

We would wish that the Court would, at least, take the position to hear our case, allow our evidence and have this proposition fully briefed.

Thank you.

[551] Judge Robinson: Very well, Mr. Halpin. Mr. Stoner.

Mr. Stoner: May it please the Court, the pleadings which have been filed in this case, both by the United States Government and by the Intervenors do not raise the issue which has been argued and presented to the Court by Mr.

Halpin. The pleadings do not attack the plan and does not mention the at-large seats.

I call the Court's attention to the Complaint which has been filed in this case, and specifically, Exhibit A to the Complaint, which is Exhibit 4 in this trial, and that exhibit, Section 3-102 is from the Charter—is a section of the Charter of the City of New Orleans. Section 3-102 is entitled, "Number and Terms of Councilmen", and is as follows:

> "The Council shall consist of seven members of whom five shall be elected from districts and two from the City at-large. The terms of Councilmen shall be four years beginning on the first Monday of May, next following their election, except that a Councilman is selected to fill a vacancy, shall serve only for the remainder of the expired term."

All right, now that provision sets up the City Charter as being a seven-man Charter—a seven-person Council. It sets two councilmen at-large and five councilmanic districts.

[552] Now I call the Court's attention to the fact that the next provision, Section 3-103 of the Charter goes on and is entitled, "Councilman Districts", and I submit that these two sections stand independent of one another. And in the latter section, the councilmanic districts are described as follows:

> "The City shall be divided into five councilmanic districts. Each district shall serve as the basis for electing a district councilman, the five districts shall be as follows . . ."

and then they refer to District A through District E.

Going then to Section 3 of that same Section, paragraph —subparagraph 3, we have the following:

> "It shall be the mandatory duty of the Council to redistrict the City by ordinance within six months after the official publication by the United States of the population of the City as enumerated in each decennial census. Each councilmanic district shall contain as nearly as possible the population factor obtained by dividing by five, the City's population as shown by the decennial census."

Now my point is this, the City Charter, itself [553] clearly deals separately with the issue of the number of the entire Council and its makeup, mainly, two at-large and five districts, and deals in a separate manner with the councilmanic districts, itself.

Now the Plan of redistricting that is before the Court is a plan that has been adopted under Section 3-103 of the Charter, and that deals only with the five councilmanic districts, and we submit to the Court that the only issue before the Court is whether or not the redistricting of the five districts as proposed in Plan No. Two is fair and equitable and complies with the Voting Rights Act of 1965. The question of the at-large councilmen is not before the Court at all. I submit again, I state again, that it has never been raised in the pleadings by, either the United States, or by the Intervenors.

Thank you.

Judge Robinson: It has not been?

Mr. Stoner: It has not been raised by the pleadings . . .

Judge Robinson: Well, you may be correct, maybe you can answer my question. I was looking at the statement for intervention. It does not seem to raise the issue, although it is my recollection that we were advised by council for the Intervenors on the very first day of trial that they intended to raise—to present this issue before the Court.

Mr. Stoner: Your Honor, I have a recollection of [554] Mr. Halpin making that issue and if the Court will recall, I believe we objected to the introduction of any evidence, or any argument with respect to that at that time.

Judge Robinson: And we did not rule on the point at the time.

Mr. Stoner: I believe the Court is correct.

Judge Corcoran: I think the record should show, too, that the Department of Justice never raised this issue, they just made their objections to the Plan.

Judge Robinson: Well, we're going to have Mr. Shurtliff make his representation at this time.

Very well, Mr. Shurtliff, you want to be heard on this?

Mr. Shurtliff: Briefly, Your Honor.

By and large, we would agree with Mr. Halpin's recital of the impact of *U.S.* v. *Georgia, Zimmer* vs. *McKeithen,* and the other cases citing the legal proposition. However, as Your Honors may recall at the time the Motion to Intervene was considered by this Panel, this question was raised and we responded that in our judgment, the issue of the two at-large members might be reached by this Court appropriately so, but that it would not be necessary in our judgment, (repeating) necessary for this Court to reach that issue.

Under the *United States* vs. *Georgia,* it is our judgment that the total package must be considered . . .

[555] Judge Robinson: The whole package?

Mr. Shurtliff: The total redistrictng package can be considered by this Court and that it is all within the purview of Section 5 and it would have been well within the powers granted by Section 5 for the Attorney-General to consider and determine on the issue of at-large at the time that it was submitted, but that as Judge Corcoran pointed out, that, in fact, was not mentioned by the Department of Justice, but that it might well have been.

Judge Robinson: Well, I don't—I'm not certain that I . . .

Mr. Shurtliff: It's a question of necessity, Your Honor, rather than a legal—in our judgment as to the legal power to do so.

Judge Robinson: What is the Court's function under Section 5 limited to in view of the scope of the decision rendered by the Attorney-General, not mentioning councilmen at-large, not posing it, rather, as an objection to the so-called Plan No. Two.

Mr. Shurtliff: The Court here is not bound, of course, by the judgments rendered by the Attorney-General in his rievew. The obligation of this Court is to determine whether or not the Plan has the purpose or effect of discriminating on account of race and color, not the correctness; indirectly, therefore, the correctness of the Department of Justice's [556] determination . . .

Judge Robinson: Excuse me, just a moment.

(The 3-Judge Panel conferred privately off-the-record.)

Judge Robinson: Go right ahead.

Mr. Shurtliff: Only in that respect does this Court indirectly examine into the Attorney-General's determination, but it makes its own determination with that respect to that question and it is our judgment that this Court could reach those issues.

Judge Robinson: Is that fair to your adversary who is not prepared to argue that point, or put on evidence concerning that point. He's built his case around the narrow issue that was raised by the Attorney-General and be brought that to this Court. Now you want to expand the pleadings and expand the proof and he's not prepared to go forward.

Mr. Shurtliff: I see no unfairness, Your Honor, in that the Plaintiffs' obligation was to persuade this Court at this time that the Plan does not have the purpose and will not have the effect . . .

Judge Corcoran: He took the Attorney-General at face value and said, "This is what's wrong . . ."—"this is what the Attorney-General said was wrong with the Plan and this s what we are prepared to argue." Now there s a new issue in the case. I think you are bound by what the Attorney-General [557] has designated as the parameters of this case.

Judge Robinson: Well, to sum it up, Mr. Halpin—I beg your pardon, not Mr. Halpin, but Mr. Shurtliff, don't leave the lectern just yet.

First thing you have is what I refer to as the scope of the Attorney-General's decision on the two submissions by

the City of New Orleans. Secondly, you have a Motion to Intervene which does not formally present that issue to the Court. The first information that the Intervenors would seek to press that issue, that I can recall receiving, was at or very near the beginning of this trial. Now we are at the point where the Plaintiffs have rested subject to a relatively minor reservation and we have the proffer by the Intervenors to put this evidence in. Now I think that fairly summarizes the situation with which the Court is confronted at this time.

If I understand the Government's position, it is that the Court is at liberty to consider this issue? Your implication is that the Court has a responsibility to consider this issue, am I correct?

Mr. Shurtliff: I'm sorry, Your Honor, I didn't catch the phrase just before . . .

Judge Robinson: I said, if I understand your position correctly, it is that the Court properly reaches the issue of the councilmen at-large and that it has a responsibility to do [558] so, is that the Government's position?

Mr. Shurtliff: Our position is that this Court can reach that issue, but that it does not necessarily have the responsibility to do so.

Judge Robinson: But that is because, as I understand, you don't think it is going to be necessary for the Court to reach it, . . .

Mr. Shurtliff: That is correct, Your Honor.

Judge Robinson: . . . the issues in the case, but we may not have to resolve it, is that correct?

Mr. Shurtliff: That is correct, Your Honor.

Judge Robinson: I'm going to raise one question to all counsel that is aside from the substantive features, it gets back to where we were about a half-hour ago, Rule 43(c) of the Federal Rules of Civil Procedure provides in—I'm going to read you the relevant part as follows:

"In an action . . ."

I'll have to read you a part that's not relevant so that you will understand the part that is relevant.

> "In an action tried by a jury, if an objection to a question propounded to a witness is sustained by the court, the examining attorney may make a specific offer of what he expects to prove by the answer of the witness."

[559] Then it goes on to say:

> "In actions tried without a jury the same procedure may be followed, except that the court upon request shall take and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged."

What, if any, role does that provision play in the decision of the question now before us. Mr. Halpin has tendered this testimony with a request that the Court receive it and later rule on the legal questions involved. My own concern is that if the Court should rule that the evidence is not admissible and the Supreme Court disagrees, we will have to sit down and do this work over again.

Do you have a thought on the applicability of Rule 43(c), Mr. Shurtliff, and I will say to you that I am going to put this same question to counsel for the Plaintiffs and for the Intervenors?

(The 3-Judge Panel conferred privately off-the-record.)

Judge Robinson: I'm sorry, Mr. Shurtliff, go ahead.

Mr. Shurtliff: It would be my judgment, Your Honor, that the Rule in this instance would allow the taking of testimony and acceptance of the proffer and that it should be [560] taken. Consistent with our position that the Court might not need reach this issue, the evidence taken on this question need not be determinative of the Court's decision later, and in that respect, would not have to have an impact on the Court's decision here, if the Court later de-

termined that it does not want to reach the question to which that testimony is directed.

Judge Robinson: All right, sir. Mr. Stoner.

Mr. Stoner: Your Honor, do I understand that the evidence would be heard as a proffer of evidence, but that the Court would not consider the evidence until it had first reached its conclusion with respect to the law which we have argued?

Judge Robinson: That is correct, under Rule 46(c), if it is a non-jury trial which we have here, and the party proffering the testimony requests that the testimony or the evidence be taken in full, the Rule says that the Court shall do so. In terms of this case, it would preserve it, first, or further decision and possible consideration by the Court, that is, if the Court should rule that the issue is properly before it, and in any event, would preserve the testimony for purposes of appellate review.

Mr. Stoner: We understand and I believe under the Rule, it would be obligatory on the Court to take the evidence.

Judge Robinson: If the Rule applies.

Mr. Stoner: If the Rule applies.

[561] Judge Robinson: Very well. Did you have any thoughts on this, Mr. Halpin?

Mr. Halpin: Well, Your Honor, obviously, my position is that the Rule does apply and I think, also, from the point of view of efficiency when there is an appeal, that that evidence would be in the transcript and would ultimately save the Court's time.

Judge Robinson: Very well. Would you indulge the Court for just a minute.

(The 3-Judge Panel conferred privately off-the-record.)

Judge Robinson: As is apparent to you all, the Court has done a modest bit of conferring on the Bench. The Court will take under advisement the question whether the issue tendered by the Intervenors is properly before it and whether it will be the subject of evidentiary presentations.

We will endeavor, gentlemen, to give you our ruling on that question at the outset of the proceedings on tomorrow morning. On behalf of the Court, however, I will at this time announce that the Court is agreed that in the event that it should conclude that this issue is properly before it and that therefore, the Intervenors may present the evidence they tender, counsel for the Plaintiffs and counsel for the Government would be entitled to an opportunity to make evidentiary presentations of their own in connection with [562] the same issue. That would mean, of course, that the Plaintiffs would have the opportunity of reopening their case and the Government would have an opportunity to expand its presentation in each case to meet the presentations by the Intervenors.

I'm saying that to you gentlemen now for whatever benefit that it may have in the way of overnight reflection, overnight preparation, even in the way of lining up possible witnesses on that score in the meanwhile.

At this point, gentlemen, I see nothing further that we can profitably do this afternoon, so we are going to take the adjournment for today, and as I have said before, tomorrow morning, as soon as Court convenes, we will endeavor to have our ruling on this issue for you then.

I take it, gentlemen, that you have nothing further that you want to bring to the Court's attention this afternoon? Is that correct?

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[600(a)] Thursday, October 18, 1973

Washington, D.C.

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[601] The Clerk: Civil Action Number 1495-73, the case of Peter H. Beer, et al, versus The United States of America, et al. Mr. Stoner, Mr. Treese and Mr. Salatich for the plaintiff. Mr. Shurtliff and Mr. Friends for the defendant. Mr. Halpin and Mr. Cotton for the intervenors.

Judge Robinson: Are you ready to proceed?

Mr. Stoner: Ready.

Judge Robinson: Yesterday at the conclusion of the proceedings, the Court had before it an objection to evidence proffered by the intervenors with respect to the fact that two members of the seven members of the New Orleans City Council are elected at large rather than on a district basis.

The objection as the Court understands it is to the relevance of evidence on that score. The Court has concluded that the evidence may be offered at this time subject to a ruling which the Court may be called upon to make before this case is fully decided as to whether that evidence has a proper bearing on this case.

There are two principal reasons for that ruling. In the first place from the viewpoint of the Court the legal question does or does not properly bear on this case is a [602] difficult question to which the parties should have the opportunity to devote themselves in written briefs, and perhaps in oral argument, and the Court itself to devote itself to a deliberate decision on that score.

Additionally, it perhaps may be a question which the Court can better decide when it sees that evidence in relationship to all other evidence in the case.

And the second main reason is at some colloquy between the Court and counsel yesterday indicated, it would appear that under Civil Rule 43(c) the intervenors in any event are entitled to proffer the evidence in full in order that it may be preserved in the event of subsequent appellate review.

For these reasons, gentlemen, the ruling of the Court is that counsel for the intervenors may proceed, subject to the plaintiff's objections, to put the evidence in. If it becomes necessary for the Court to make legal ruling, it will do so. And subject to the further proviso as the Court indicated from the bench on yesterday in any event counsel for the plaintiffs and counsel for the Government will be permitted to introduce evidence of their own on the same question should they feel it advisable to do so.

That means, of course, that the case of the plaintiffs will be reopened for that purpose if the plaintiffs should desire to put on evidence in that regard.

[603] Now, gentlemen, it also seems to the Court, however, that it may not take nearly as much time to address evidence to this issue as the Court has been advised that it may take. There are some things about the matter of at large voting that have already been the subject of judicial decision.

At large voting was involved in Georgia versus The United States, and Perkins versus Matthews in the Supreme Court, and in City of Petersburg versus The United States in this Court, and things that are already established judicially, and things that we know certainly do not need to be belabored, so the Court will admonish that it will scrutinize the testimony that is being offered in this regard, and it will not permit counsel to go far afield.

Unless there are some questions as to what the current position of the Court is, we will move to the next stage of this case which, assuming the presence of the witnesses for the Government, will be the presentation of evidence on behalf of the Government.

Mr. Stoner, you have one witness on yesterday, I am reminded. Is that witness available now?

Mr. Stoner: Your Honor, the plaintiffs upon reflection and study over the evening have decided to rest their case in principal subject to the right to reopen as Your Honor announced from the bench with respect to the new issue which the Court will hear at proffered evidence.

[604] Thank you.

Judge Robinson: Very well. Mr. Shurtliff, you may call your first witness.

Mr. Shurtliff: If it pleases the Court, the Government would call Mrs. Cretha Haley. Mrs. Haley will be examined by Mr. Friends.

Judge Robinson: Very well. You may proceed.

Oretha Haley,

a witness called for and in behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Friends:

Q. State your name, please. A. Oretha Haley.

Q. For the record, will you state your race, please? A. Black.

Q. What is your address, Mrs. Haley?

Judge Corcoran: Would you ask the witness to speak up, please?

Judge Robinson: And would you do so also, counsel?

Mr. Friends: Yes, Your Honor.

Judge Robinson: Maybe you better repeat your last question.

Mr. Friends: Should I go over that?

Judge Robinson: Your last question.

[605] By Mr. Friends:

Q. Would you state your address, please? A. 1716 Agriculture Street, New Orleans, Louisiana.

Q. How long have you lived in New Orleans? A. I have lived in New Orleans since 1948.

Q. That is most of your life? A. Most of it.

Q. What is your occupation? A. I am a homemaker.

Q. Is that your full time occupation now? A. Yes, besides much of the community volunteer work that I do.

Q. What type of community volunteer work do you do? A. Well, I am involved in quite a number of community wide issues, for example, the transportation question in the City of New Orleans, the Booster Club activities, and quite a number of others.

Q. What council district do you reside in? A. I live in Councilmatic District D.

Q. Is your community involvement limited to that district? A. No, it isn't. As a matter of fact, most of the activities that I am involved in are citywide in scope.

Q. Are you a member of any civic organization? A. Yes, I belong to several.

[606] Q. Would you state those, please? A. I am a member of the Urban League of the NAACP, a founder and board member of the Sickle Cell Anemia Foundation, Stallings Playground Booster Club.

Q. Are those predominantly black organizations? A. Yes, I would say that they are basically black.

Q. What was your previous employment? A. I have been employed by Xavier University as a Community Participation Director.

I served as Program Director for the Urban League, and prior to that I worked as a community consultant for the Social Welfare Planning Council.

Q. Mrs. Haley, what is your educational background? A. I have a B.A. degree in political science from Southern University, and I have undertaken some graduate non-credit courses.

Q. Have you ever held a public office? A. No, I have never held a public office.

Q. Have you ever campaigned for a person seeking a public office? A. Yes, on numerous occasions I have campaigned for persons.

Q. What candidates were they and when? A. If I can recall—let's see, I think the first campaign I worked in was Nils Douglas who ran for the State Legislature.

[607] I worked for Charles Elloie, who also ran for the State Legislature. I worked for Ernest Cherrie and Larry Cager, who were school board candidates.

I worked for Theodore Marchand, who ran for the State Legislature. I also served as Dorothy Taylor's campaign manager when she ran for the House Seat, to name a few.

Q. Are all those candidates black? A. Yes, all of them are.

Q. You were campaign manager for Dorothy Taylor, is that right? A. Yes, I was.

Q. And what year was this? A. In 1971.

Q. Did you direct your campaign toward any particular segment of the population? A. Yes, the primary strategy of the campaign was to concentrate and direct our attention to where they considered the strength of Dorothy Taylor to be, and that was in the black community.

Q. Did that hold true for the other candidates? A. Yes, I would say that that held true for most of the other candidates.

Q. Were any of the candidates on tickets or slates with other white candidates? A. Not that I just mentioned, no. The ones that I [608] mentioned before, no, they weren't.

Q. Mrs. Haley, based on your campaign experience, is there block voting in New Orleans? A. I would say based on what I have seen of election returns, that you can very clearly see block voting being done by whites and by blacks, in New Orleans.

Q. Is that particularly evident in any election that you know of? A. One particular election that stands out in my mind was in '71 I think, or '70, when Theodore Marchand ran for the State Legislature. He won the Democratic nomination, a Republican qualified against him, and for the first time I guess in I don't know how many years, or maybe in that century, you had a Republican elected to the House from that particular area, and primarily because all of the whites voted in a block for the Republican candidate as opposed to voting for Marchand.

Q. Are you aware of the fact that three blacks were elected to citywide office in New Orleans? A. Yes, I am.

Q. How did that comport with your conclusion that there is block voting in New Orleans? A. You really would have to look at the campaigns and the candidates who won those citywide offices. For example, Israel Augustine won a citywide judgeship. The co-campaign chairman for Augustine's campaign was the then governor of [609] Louisiana, John McKeithen, and the mayor of the City of New Orleans, Moon Landrieu.

Dr. Spears also ran a citywide campaign for the school board office in New Orleans. Informally, Dr. Spears was running really as a team with a school board member who had served many years on the school board, Lord Rickner, who had been the president at one time, and in a way I guess you would say those candidates were so put together, or presented, or packaged, or to make them acceptable to the white political powers, so that their election to citywide office I would say is quite an exception, not what you would find as a general rule, that black candidates who would run, and this has been demonstrated in other elections, black candidates who have chosen to run what I would quite as independent of that kind of association in order to really be legitimate candidates have lost elections, and you can see that in several of the elections that we have had for candidates who have run for citywide office.

One that comes to my mind particularly is the candidacy of Larry Cager for the school board.

Q. The persons that you campaigned for, were they all successful? A. No, I'm afraid not. The only successful candidate I think was Dorothy Taylor, who was elected to the State House.

Q. Did she have white support? [610] A. The district that she ran from was primarily—That district was a majority black district at that time. I would say that there were—she had by way of public pronouncement received support from some whites.

Q. What whites were they? A. The only one really that comes to my mind right now is the mayor had indicated in a news conference that he supported Dorothy Taylor for the House.

Q. What was the racial makeup of Mrs. Taylor's district? A. At that time the district was about 80% black. Since that time, all of the State Legislature has been redistricted.

Q. In your working in the community, have you presented any proposal to the City Council concerning the black community? A. Down through the years I have had

the occasion to appear before or work with groups who made presentations to the City Council.

Q. Do you recall some of the issues that you presented? A. I think I initially recall appeared before the City Council around 1963 urging the Council to adopt a public accommodations law, urging the Council to adopt an equal employment opportunity ordinance as well as an open house ordinance.

On another occasion appeared before the Council concerning a proposal that was called a stop and frisk law that [611] was to be adopted.

I also appeared before the Council on the question of the location of a bridge in the metropolitan area as well as other issues, and, of course, on this redistricting question I appeared before the Council.

Q. Were any ordinances passed as a result of your appearing before the City Council? A. Not that—there wasn't one passed on the public accommodations, or the open housing, or the equal opportunity. The Council did adopt the stop and frisk law which was something that we were asking the Council not to do.

On the question of the location of tht bridge, the Council did adopt a resolution which was favorable toward the position that I held at that time.

Q. Was the public accommodations law eventually passed? A. A public accommodations law was not passed. Well, yes, one was evtntually passed in 1969, however, after I think it was twenty-four black members of the National Football League left, walked out of the City of New Orleans because of some of the treatment or incidents of discrimination that they had experienced.

New Orleans was up to get the Super Bowl Game, and I think it had been made quite clear to the City Fathers that unless the City showed some good faith effort which could be in the form of adopting a public accommodation law that the game [612] would not come to the city, and it was at that time in December of 1969 that a public accommodations law was adopted which was quite a number of years later.

Q. Did you present a proposal for expanding the City Council of New Orleans? A. Yes; yes, I did.

Q. What was that proposal?

Judge Robinson: When was it? I would like to know.

By Mr. Friends:

Q. When was it? A. It was at the time when the City Council held its first hearing on the present redistricting question. If I recall correctly that was around February I think the 16th, 1972.

Q. And what was that proposal? A. At that time we said to the City Council that the present structure that we have right now, which is a five district, two at large, is basically an inadequate structure for a city that has the population of over five hundred thousand, which New Orleans does.

We indicated at that time that when you look around the country the national trends are cities that have population of five hundred thousand or more generally have councils that range in the size from twelve to nineteen with a medium being fifteen, and that because of the basic inadequate structure of [613] the five district, two at large, that structure itself would not allow for a fair redistricting plan that would be representative of all socio economic interests in the City, and we proposed to the Council at that time given certain basic criteria that we had used that the Council adopt an eleven district plan, which we held would provide for a far more adequate and fair redistricting plan.

Q. You say "we". Are you referring to a group? A. On that particular issue there were a coalition of organizations and individuals developed to work on the issue of redistricting, and that loose coalition was called a coalition for a fair redistricting plan, so that when I say "we", I am referring to the group of the coalition.

Q. What was the racial composition of that group? A. I cannot—I cannot remember exactly how many groups were involved in it, but it was quite a large cross-section

of all of the groups in the black community, and a—there were two mixed groups as such.

It was basically an all black group with two mixed groups that had both black and white membership that were involved in it.

Q. Were there any white groups? A. Not all white groups, no.

Q. Did you campaign actively? A. I may say at that time, however, when the City [614] Council held the hearing that there were white groups who did speak and who did, you know, make a presentation, none of which really spoke in favor of the present council size at that particular hearing.

Q. Did you actively campaign for the passage of that ordinance? A. What were proposing was never enacted as an ordinance so that that was not something that we voted on.

Mr. Stoner: I object to the question, Your Honor. I don't believe it is responsive. I object to the answer. I don't believe it is responsive to the question that was asked.

Judge Robinson: Put the question again, and let's see whether the question is understood.

By Mr. Friends:

Q. Did you actively campaign for the passage of the ordinance to the City Council? A. Subsequently the City Council adopted an ordinance that would have enlarged the Council from five districts to nine districts, and two at large, and I did.

Judge Robinson: Now just a moment.

Mr. Stoner: I will object to the answer on the same grounds.

Judge Waddy: Your answer is not responsive to the question. Did you understand the question?

The Witness: I thought I was responding to the [615] question I understood, so——

Judge Robinson: Mrs. Haley, as the Court understands the question, it is did you campaign for the legislation to

which you have just made reference? You are speaking about that particular ordinance, are you not?

Mr. Friends: Yes, Your Honor.

Judge Robinson: Very well. Did you campaign for it?

The Witness: Did I campaign for the particular ordinance that I was just talking about, the eleven district that we submitted?

Judge Robinson: Yes.

The Witness: There was never such an ordinance.

Judge Waddy: The question was did you campaign for such.

The Witness: Oh, I am sorry. Yes, I am sorry, I was really understanding campaigning meaning to go and vote. I am very sorry. Yes, I did.

By Mr. Friends:

Q. Did you campaign for the passage of the ordinance to expand the City Council?

Judge Robinson: I myself suggest we may have a problem of relevance on these questions as to whether or not the witness did or did not campaign for them. What relationship does that have to the issues before the Court? [616] Mr. Friends: Your Honor, we have alleged that the referendum elections for expanding the City Council resulted in black voting by race, and Mrs. Haley is a community worker. She was active in presenting this ordinance and other ordinances to the City Council to expand, and we are alleging that whites did not support the ordinance, that it was strictly supported by blacks, and the results of the elections show that which goes to our showing that there was block voting by race.

Judge Robinson: Well, if you want to explore that, you may do so, but your question is whether the witness campaigned for this or for that.

Mr. Friends: I will strike the latter question, Your Honor.

Judge Robinson: Very well.

By Mr. Friends:

Q. Mrs. Haley, are you familiar with the redistricting plan, commonly called the Moreau Plan which is the subject of this litigation? A. Yes, I am.

Q. Does that plan meet with your approval? A. No, it doesn't.

Q. Why not? A. The plan does not, primarily because, as I indicated earlier, a five district two at large situation I feel is [617] basically inadequate and consequently results in discrimination.

Also the plan that was adopted that is presently called the Moreau Plan seems to very effectively dilute present black voting strength and the potential black voting strength that may exist in the City of New Orleans and this seemed to me as done primarily by the fact that the Council has insisted on following the ward lines, following the ward lines in the redistricting plan so that you have the lines going from north to south, and you have because of housing patterns the flow of the black population going from east to west in the City of New Orleans.

Therefore, what you have is blacks, a small number of blacks being placed in between like in the center of a larger white area on either side, so that very effectively what you do is just take a few blacks and like sit them in the center, and then you have whites on either side, and in that way whatever the potential is is certainly cut, a dilute and it is primarily because of those reasons that I just mentioned that the Moreau Plan does not meet with my approval.

Q. Based on your political activity, do you believe a black candidate could win any of the City Council seats under that plan? A. As the plan is presently drawn there may be the opportunity for the possibility of the election of one black but, as I said earlier, the plan itself is really gerrymanded [618] so as to give middle income and upper income whites a special—special advantage for election, so that it is my opinion that blacks would not have any real possibility of being elected from that particular plan.

Q. Mrs. Haley, are you a registered voter? A. Yes, I am a registered voter.

Q. Have you done your registration work? A. Yes, I have worked in the area of voter registration I would say from 1960 up through 1969.

Q. When did you become registered yourself? A. I did not become a registered voter until 1965 after the Civil Rights Voting Act was passed.

Q. Was that when you became 21? A. No, that was long after I became 21, but because again of the discriminatory practices by the Registrar of the Voters on numerous occasions, I went down to register and was turned down for one reason or another, primarily residency. I didn't have enough identification with me. So that it was not until after the passage of the Voting Rights Act that I was able finally to register.

Q. Did you have any problem getting other blacks registered? A. From 19—from—prior to 1965 there was a tremendous hard time getting other blacks registered. I continued to do this work up through '69, and up til that [619] time there was still difficulty in having blacks registered, and that is primarily blacks were being turned down because they could not prove that they lived in a certain area or certain address for a long enough period of time, or they could not prove that they were in fact who they said they were.

Q. To your knowledge, have those problems subsided now? A. It appears—It appears as though that has lessened the difficulty in persons being able to be registered. Has really lessened a great deal in the past couple of months. I would say maybe since August or so after this case was filed, and I base that on the fact that since that time the Registrar of Voters has moved around throughout the community at public meetings, and persons have been able to register and this was not done before except on some college campuses.

Q. The Registrars now come to the black community, is that your testimony? A. There have been a series of

meetings held where the Registrar of Voters has come out and said people were registered.

Q. Prior to August was the Deputy Registrar going out to the black communities? A. Not to my knowledge. There was some college registration before, and in the last election on a one- or two-day basis there was an ad hoc situation set up at the firestation, but not as open, nearly as open, as it is now, you know.

[620] Prior to the Registrar doing this, it had always been stated that it was a violation of the law, that he could not have persons come out to meetings and register people.

Mr. Friends: I have no further questions.

Judge Robinson: I beg your pardon?

Mr. Friends: I have no further questions.

Judge Robinson: Cross-examination, Mr. Stoner.

Cross-Examination

By Mr. Stoner:

Q. Mrs. Haley, I believe you testified you are a member of the NAACP? A. I hold a paid membership in that organization, yes.

Q. Is that a responsible organization in the City of New Orleans? A. Would you define "responsible" for me so that our definition will be the same?

Q. Is it an organization that commands the respect of the black community, the majority of the black community in the City of New Orleans? A. I would say historically that the NAACP has undertaken many efforts that most black people responded to historically.

Q. Now do you know whether or not that organization [621] has submitted a plan of redistricting the City of New Orleans Councilmatic District in the City of New Orleans? A. Yes.

Q. Now are you familiar with that plan? A. Yes, I am familiar with that plan.

Q. Do you agree with that plan for the redistricting of the Councilmatic Districts of the City of New Orleans? A. No, I don't agree with that plan basically for the reasons that I stated earlier. I think the plan that was proposed by the NAACP was based on—is based, rather, on five districts two at large, and I think basically that is inadequate.

Q. You believe that a plan that is composed of five districts and two at large is inadequate, is that your statement? A. That is my statement, and as long as you draw the lines north-south—It is possible perhaps to do something a little bit more fair if you draw the lines east-west, and I don't think the NAACP Plan does that.

The NAACP Plan follows the traditional ward lines as does the City's Plan. Q. Now I believe there were public hearings held in New Orleans on the question of redistricting, and I believe you testified that you attended those hearings, is that correct? A. Yes.

[622] Q. And when were those hearings held? Do you recall? A. I cannot remember all of the specific dates. I do think the first hearing was held on February 16, 1972, and there were a series of hearings from that time up until the final adoption of this particular plan.

Q. Now did you attend all the hearings, the public hearings, that were held? A. I think I attended all of them, yes.

Q. Do you recall whether or not those hearings were held prior to the referendum on the proposal to increase the Council to eleven members? A. If I recall—If I recall correctly, there were hearings held prior to and after if I recall correctly.

Q. Do you recall whether or not you attended hearings on the proposal that the Council be increased to a nine-member Council? A. I am sure I did, yes.

Q. Now would you agree that both of those plans, that is, the eleven-man proposal and the nine-man proposal was submitted to the electorate of the City of New Orleans and both plans were defeated? A. Yes, that is correct.

Q. Now after that time, after the second election, did you attend any public hearings on a proposed redistricting [623] plan? A. I think I did attend the hearings.

Q. Do you recall when that was? A. No, I don't recall when that was? A. No, I don't recall the specific dates.

Q. Do you recall whether or not you spoke at that meeting? A. I recall as best as I can recall I did not personally speak, but someone who represented the views of the fair districting group did speak.

Q. Do you recall who that was? A. I cannot recall offhand who it was. I do—I think Mr. Galvin was one of the speakers who was a member of it, Mr. Carl Galvin.

Q. Do you know whether or not the organization which you just referred to submitted a proposed plan for the redistricting of the Councilmatic District of the City of New Orleans? A. We did not submit a five district two at large councilmatic redistricting plan. However, we asked one other person who spoke to submit for us a seven district redistricting plan. This would not have expanded the Council as such in terms or enlarged its membership. It would just have been seven districts.

Q. Are you familiar with the Home Rule Charter of the City of New Orleans? [624] A. In a very limited way. I am familiar with some parts of it.

Q. I am referring specifically to the Home Rule Charter provisions with respect to the Council of the City of New Orleans. A. I have read it. I am not sure I can recall all of it in detail.

Q. Are you aware that that charter provision is a provision that calls for two at large council seats and five district councilmatic seats? A. Yes, the charter does that.

Q. Now, Miss Taylor—— A. My name is Haley.

Judge Robinson: Just a moment.

By Mr. Stoner:

Q. Mrs. Haley, did you participate in the campaign of Judge Morial, the successful campaign of Judge Morial when he was elected on a citywide basis? A. To which seat are you referring, sir?

Q. I am referring to the most recent election when he was elected to the Court. A. If I recall correctly, when

Judge Morial was elected to the Court of Appeals, his most recent election, the candidate that was running against him due to illness or some other reason withdraw, and he was automatically elected.

[625] Q. Did you participate in that campaign? A. If I recall correctly, there was no, you know, there wasn't a campaign because his opponent withdrew.

Q. Well, prior to the time the opponent withdrew, did you participate in the campaign? A. I was not very active in it. I may have. I think I did some telephoning for Judge Morial.

Q. Did you support Judge Morial? A. You are talking about in the Court of Appeals race?

Q. Yes. A. As I said before, if I recall correctly the opponent that Judge Morial was running against withdrew and he was the only candidate left in the race.

Q. Now did I understand you to say you made some telephone calls? What was the nature of those telephone calls? A. Prior to—At one point there was some activity on the part of Judge Morial and, you know, for his candidacy, prior to the person withdrawing, and it would have been urging persons to vote for him on his behalf.

Q. Now how about the most recent election of Judge Augustine? Did you participate in that election? A. I did a little work in the campaign headquarters during that election, not very much, but a little bit.

[626] Q. Were you supporting the candidacy of Judge Augustine? A. Yes.

Q. How about the election of Dr. Spears to the School Board? Did you participate in that election? A. I primarily made financial contribution to that election.

Q. You did not campaign for Dr. Spears or—— A. Others to vote for him. Not actively.

Q. Do you know how many persons were running in that election for the School Board? A. I cannot recall offhand, but I think it was several persons.

Q. And do you know how many elective position were at stake in that election? A. I think it was two, but I am not positive.

Q. And there were two positions? A. I am not positive of that.

Q. You don't recall the number of—— A. I don't recall, no.

Q. You don't recall the number of candidates. Do you recall whether or not you supported any other candidates for the two positions or a person other than Dr. Spears? A. Charles Elloie.

Q. Was he successful? [627] A. No.

Q. Now, Mrs. Haley, could you tell us in what part of the city do you live, and you may refer to a councilmatic district if you know. A. Okay. I live in Councilmatic District D.

Q. D? A. D.

Q. And were the campaigns that you were connected with or active in primarily in that area of the city, or were they citywide campaigns, or were they in other areas of the City of New Orleans? A. They—No, they were not primarily in that Councilmatic District. They were in other districts as well as citywide for the most part.

Q. Have you ever supported a candidates for a councilmatic district seat in District D? A. I voted. No, no, no, because I was not living in the District D in the last councilmatic election.

Q. Did you support a candidate in any other district in the City of New Orleans? A. In the last city election I did some work for a candidate who was running for District B, a black candidate who was running.

Q. When you say the "last", you mean the '67 election? [628] A. Yes.

Q. I believe you testified that you first registered as a voter in 1965. A. Yes, it was. I just can recall it was after the Voting Rights Act passed some time.

Q. And when prior to that time had you attempted to to register as a voter? A. Oh, I cannot recall the specific dates, but on numerous occasions. As I testified earlier, I was involved during that prior to '65 periodically at voter registration work, so I had the occasion to be in the Regis-

tration Office quite often, and just periodically I would go and try again.

Q. And where did you attempt to register? A. In the Registrar of Voter's Office in the City Hall, New Orleans.

Q. And do I understand you urged other people to also register? A. Yes.

Q. And your testimony is that you were denied the opportunity of registering prior to 1965? A. That is correct.

Q. And how many times was that that you attempted to register? A. I can't recall offhand, but it was several times.

Q. You don't recall with any reasonable certainty [629] the approximate dates of that attempt? A. No. As I said before, I was involved in voter registration work and found myself having to go to the Registrar's office a number of, you know, quite often, so every other week I would go in and see, well, if I could make it this time.

Q. Now did any of the persons whom you urged to register, did any of them register, in fact? A. Prior to 1965, occasionally, yes, some persons did get registered, yes, but nowhere near proportionately the number of people that were brought to the Registrar's Office.

Q. Now did I understand you to say that since 1969 you have not been active in Voter Registration? A. I have not done intensive work in Voter Registration as I had done before like, you know, going out and knocking door to door urging people to go register.

Q. Now are you familiar with the present registration procedure in the City of New Orleans? A. I think I am.

Q. And are you aware that the Voter Registrar sends representatives into various sections of the City of New Orleans to facilitate registration? A. As I indicated earlier in response to a question that this is a recent practice. I am familiar with that, and this is a recent practice.

[630] Q. And when did you first become aware of that procedure? A. A few months ago when—It was a wide, you know, a widespread basis. Prior to that Registrar of Voters had sent deputies out to various college campuses, but it was not widespread as it is now.

Q. Now you referred to the Marchand election I believe. What position was that that Mr. Marchand was running for? A. Mr. Marchand was running for a position in the State House.

Q. The State House of Representatives? A. The State House of Representatives, yes.

Q. And when was that? A. If I recall correctly it was either '70 or '71. I think maybe the last part of '70.

Q. And what area of the City did the district from which Mr. Marchand was runnng, what area of the City was that located in? A. Ward nine.

Q. Yes. A. Which is Councilmatic District E.

Q. And did it comprise the entire ward? Was that his whole district? A. The entire ward at that time. The District has since changed, the entire nine ward, and a few precincts in [631] Ward Eight.

Q. And was Mr. Marchand the Democratic nominee? A. Yes, he was.

Q. How many persons had run against him in the primary? Do you recall? A. I cannot recall the exact number. I am sure it was three or more.

Q. Do you recall whether or not Mr. Marchand had ever previously run for public office? A. Not that I can recall offhand.

Q. How old a man was he? A. I assume he was in the early thirties.

Q. And what was his business, or professional or personal life experience at the time he ran for office? A. By occupation I think Marchand is a building contractor, and by experience or whatever—He had been very active in community and political activities in the Ninth Ward over a period of years.

Q. Do you know his educational background at all? A. No, I cannot recall accurately what his educational background was.

Q. What cities in the United States of a comparable population to the City of New Orleans have a city council in excess of—— A. Okay, I think I may have that.

[632] Judge Robinson: Just a moment. Let's finish the question.

Q. In excess of seven members?

Judge Robinson: Do you understand the question, Mrs. Haley?

The Witness: Would you repeat it, please, to make sure?

By Mr. Stoner:

Q. What cities in the United States of a population of more than five hundred thousand have city councils elected with more than seven members? A. If I can recall offhand. Let's see, that have in excess of seven. St. Louis, Memphis, Pittsburgh, I believe, San Francisco. I do have a listing of them. I thought I had it here with me. I have it here in the courtroom but I can give you several of them, but I am sure those do have populations of five hundred thousand or more.

According to the reference book, "Municipal Governments", there is only one other city that was surveyed in the country with a populaton of five hundred thousand or over that has a council as small as the City of New Orleans, and I think that is Columbus, Ohio.

However, all of those members are elected at large.

[633] Q. Do you know Mr. Nils Douglas? A. Yes, I do.

Q. Have you ever been active in any of his campaigns for public office? A. Yes, Mr. Douglas ran twice for the State House of Representatives seat and I was active in his campaign each one of those times. I think that was '63 and '66.

Q. Is it true that Mr. Douglas is the chairman of the SOUL organization, the organization on SOUL, the southern organization for—— A. Presently I think—I believe he is chairman of the Southern Organization for Unified Leadership, which is called SOUL.

Q. And you are a member of that organization? A. No, I am not.

Q. But you have been active in his political campaigns? A. Yes, and I just might add that in both of those races, Mr. Douglas ran prior to the organization of SOUL.

Q. Let me ask you this. Do you know when Mr. Douglas first ran for public office? A. I am not positive, but I think it was '63. It was around that time.

Q. Do you know whether or not the organization was in existence at that time? [637] A. No, it was not. SOUL was not organized until the late '60s. It may have been '68, and I think Mr. Douglas ran in 1963 and 1966 for the House Seat.

Q. Are you aware of the fact that the organization that is now known as SOUL had been in existence a number of years prior to 1968, although not in an incorporated capacity? A. To my knowledge, SOUL did not exist in those earlier years.

Q. Now has that organization taken positions. political positions, on citywide issues in the City of New Orleans? A. I am not a member of that organization, and I think that it probably has, but I would not have all of that knowledge on the top of my head.

Q. But you are familiar with the organization? A. Yes.

Q. And is it an organization of small membership, or large membership, or what it its support in the City of New Orleans? A. I really don't have any idea what the actual membership is that makes up the organization. The organization primarily in the past has functioned in what is called the Ninth Ward, you know, the Ninth Ward of the City, or there again what would be Councilmatic District E, but I don't have any idea about the membership.

[635] Q. But it has been a regional organization within the City of New Orleans?

Judge Robinson: I beg your pardon. It has been a what?

Mr. Stoner: A regional organization.

Judge Robinson: Regional organization?

By Mr. Stoner:

Q. A regional organization within the City of New Orleans. A. In the past as far as its concentration on candidates, for the most part it has been. However, SOUL has endorsed and supported citywide candidates like for mayor and various other things, but I think I would say it has been regionally based.

Q. Do you know whether or not SOUL took a position on the redistricting plans that have been offered? A. I do know that in the early part of the redistricting question SOUL took a position supportive of the adoption of an eleven district plan.

Q. Do you know whether or not it took any position following the two referendum elections with respect to the redistricting plan? A. I don't know if it—I am sure it did take a position on the last—You said after the referendums?

Q. After the two referendums, yes. [636] A. I really don't know.

Mr. Stoner: I have no further questions.

Judge Robinson: Any questions, Mr. Halpin?

Mr. Halpin: I would like to ask——

Judge Robinson: Very well.

By Mr. Halpin:

Q. Mrs. Haley, you testified as to the general difficulty prior to 1965 in registering black people. Could you just very briefly mention other areas of racial discrimination during that period, particularly in regard to the schools, and public facilities?

Mr. Stoner: Your Honor, I object to this question.

Judge Robinson: On what basis?

Mr. Stoner: I don't know that it is relevant to the issues. He is referring to periods prior to 1965, I believe.

Judge Robinson: What is your period, Mrs. Haley.

The Witness: I was referring prior to 1965 in this question. I can be more specific.

Judge Robinson: The objection is overruled. Restate the question however for the benefit of the witness.

By Mr. Halpin:

Q. Could you state, Mrs. Haley, are you generally familiar with facets of life and culture in New Orleans? [637] A. To some degree I am, yes.

Q. Could you state whether the public schools in New Orleans were segregated by race, and, if so, until about what time. A. Yes, the public schools were segregated by race until there was a court decision I think Bush versus the State of Louisiana, which was around I think about '61.

The schools were legally segregated. Many schools, however, which were based on the neighborhood concept, and those that followed housing patterns today still remain segregated. That is one of the questions the school board is presently, you know, engaging in.

Q. Have public facilities been segregated in New Orleans, and, if so, please state at what time. A. Yes, public facilities, you know, just in public places segregated, but even within the city hall there were signs for blacks at water fountains, at rest rooms, and in the cafeteria that was located in the City Hall. Blacks could not even be served there.

Q. Now you indicated you only registered to vote after passage of the 1965 Voting Rights Act. A. Yes.

Q. Could you give me a general idea of the increase [638] of black voting registration in the period immediately following the passage of the Voting Rights Act? A. I think prior to the Voting Rights Act, the black registration stayed somewhere around about thirty thousand.

You know, for years and years there was never that much of an increase. Stayed around that.

However, immediately after the passage of the Voting Rights Act, registration increased tremendously until today I think we are somewhere around eighty-some thousand.

Q. You mentioned in discussing the political organization SOUL that that organization generally started around

the late sixties. Was there any coincidence in terms of time of forming black political organizations and increase in black voting registration which you mentioned? A. It is my opinion that there is some correlation because prior to the adoption of the Voting Rights Act black registration was never able to become high enough to really be very significant, particularly in influencing political elections, so with the onset of increased volunteer registration after 1965 you naturally had the formation of political organization by blacks.

Q. From your experience in the campaigns that you mentioned for black candidates, could you generally describe the effect that this history of past discrimination that you have just testified to had upon the campaigning and political [639] strategy, and so forth of black candidates?

Judge Robinson: Just a moment.

Mr. Stoner: I object to the question, Your Honor.

Judge Robinson: The objection is overruled. This is the same consideration that we had before. Do you have the question, Mrs. Haley?

The Witness: I am not sure if I do.

Judge Robinson: If you would repeat it, please. Restate the question.

By Mr. Halpin:

Q. I will rephrase it also.

Given your experience of campaigning for black candidates, could you generally discuss the effect that this history of discrimination in New Orleans had upon black political organizations electing black officials in New Orleans? A. If I understand you question correctly, I would say that the effect that it has had in terms of attitude, in terms of the way the voting has taken place, suggests rather very strongly I would say that black candidates who do run for public office if they are running in any campaign would best address their campaign to where they consider their strength to be and just based on what has happened in the past, that would be to the black community.

Also, candidates who are interested in running citywide races, would really best have to make themselves accep-
[640] table to the white powers that be if they were interested in winning. I am not sure that answers your question.

Q. Particularly are you familiar with the majority requirement, that is, the requirement under the Louisiana Law which requires a candidate to receive a majority of votes rather than a mere plurality in order to win an election? A. Slightly, I am somewhat familiar with it.

Q. Could you discuss the general effect that that has upon candidates, black candidates in running?

Judge Robinson: Just a moment.

Mr. Stoner: Your Honor——

Judge Robinson: Just a moment. All right, now Mr. Stoner, do you have an objection?

Mr. Stoner: Yes, I object to the form of the question. Mr. Halpin has asked——

Judge Robinson: To the form of the question?

Mr. Stone: He refers to an item of Louisiana Law that requires a majority, and I don't know that we have any evidence on that in the case, and furthermore, I don't know what relevance it has.

Mr. Halpin: Well, I intend to ask the Court to take judicial notice of this statute as well as some other statutes of Louisiana.

My question, however, simply goes to whether the witness is generally aware of that feature.
[641] Judge Robinson: Well, you may ask that, but it only takes one question to answer that.

By Mr. Halpin:

Q. All right, and secondly, I would say which types of elections? Is it generally elections——

Judge Robinson: I am sorry, gentlemen, but I can't help you because I am not familiar with the statute. Let's reframe the question, Mr. Halpin.

Mr. Halpin: Okay.

By Mr. Halpin:

Q. Mrs. Haley——

Judge Robinson: Pardon me, do not answer the question until you are instructed to do so, Mrs. Haley.

The Witness: All right.

By Mr. Halpin:

Q. Mrs. Haley, are you generally familiar with the requirement for a candidate requiring a majority of the votes in order to be elected in certain elections in Louisiana?

Judge Robinson: You may answer.

The Witness: I am familiar with that to some degree. As you were asking the question, what came to my mind is, for example, in the councilmatic races, we have two sets, and in order for a candidate to win, you know, he has to have that plurality which means that you have to vote for two candidates in order for your vote to count, and that winds up working [642] against—If a black is running, for every vote he gets, the white gets two.

Q. All right. Is what you are referring to there the anti-single shot law? A. I guess so.

Q. Just for clarification, generally given your knowledge that you may have of the election structure, what effect is any does the history of past discrimination that you mentioned have upon the campaigning of black candidates?

Mr. Stoner: The same objection, Your Honor.

Judge Robinson: The objection is overruled. You may answer the question.

The Witness: I am really not sure I understand.

Judge Corcoran: I don't think I understand it either. Would you rephrase it?

By Mr. Halpin:

Q. Well, it may well be—In terms of the past voter discrimination in particular that you referred to, could you mention what effect if any that history presently has upon the campaigns of black candidates, particularly in regard to the election laws that you just mentioned?

Judge Robinson: Just a moment, Mrs. Haley.

Judge Corcoran: It doesn't make any sense to me at all. Can you relate it to the case at hand?

Judge Robinson: I think your question is about to be withdrawn.

[643] Mr. Halpin: I will withdraw the question, and pursue it with another witness.

Judge Robinson: Go on to your next question.

Mr. Halpin: I have no further questions then.

Judge Robinson: All right. Is there any redirect examination, Mr. Friends?

Mr. Friends: We have no further questions now.

Judge Waddy: Do you have another questions?

Mr. Stoner: I just have one or two very short questions.

Judge Robinson: By all means, go ahead.

By Mr. Stoner:

Q. Mrs. Haley, do you really hold a position in the City Government of the City of New Orleans? A. I do hold a position.

Q. Do you hold any position of any kind connected with the City Government of the City of New Orleans? A. I do not hold an elected position.

Q. Any appointive position? A. I do hold a position as a Board Member for a public corporation called New Towns, the New Community.

Q. The New Town Development Corporation? A. Right.

Q. And were you appointed to that position? A. Yes, I was appointed to that position.

[644] Q. And by whom? A. The procedure is for the mayor to make the appointment, so I was appointed by the mayor.

Q. And how long have you served in that capacity? A. The Board activated sometime I think around April or May of—this is '73.

Q. And you have served since that time? A. Yes, I have.

Q. And is that a quasi public corporation? Do you know? A. Yes.

Q. And have you ever held any other appointed positions in the City of New Orleans? A. Not that I can recall offhand . . . appointed, connected with city government?

Q. Yes. A. No.

Q. I believe you referred to the schools of the City of New Orleans. Are the schools in the City of New Orleans under the jurisdiction of the City Council or of the Mayor of the City of New Orleans? A. The School Board is under the jurisdiction of an elected School Board.

Q. Are the schools funded by a City Council or administered by the City Council of the City of New Orleans in any respect? [645-670] A. No, they are not administered by the City Council.

Mr. Stoner: I have no further questions, I have no further questions.

Judge Robinson: Are you all finished, gentlemen, with this witness?

(No response.)

Judge Robinson: I take it she may be excused from this trial at this point.

Mrs. Haley, you are, of course, welcome to remain, but you are also free to leave at any time.

The Witness: Thank you.

Judge Robinson: At this point the Court will stand in recess for ten minutes.

The Marshal: All rise. This Honorable Court will stand in recess until return of court.

(Whereupon the Court was recessed for ten minutes.)

[671] [Following recess:]

Judge Robinson: You may call your next witness, Mr. Shurtliff.

Mr. Shurtliff: Mrs. Haley will be the only live witness that we will present at this time. The two other Government witnesses were deposed and their depositions will be offered.

Judge Robinson: All right.

Mr. Shurtliff: At this time, Your Honor, may I offer our documentary evidence?

Judge Robinson: Very well.

Mr. Shurtliff: Pursuant to stipulation with counsel for plaintiffs, United States Exhibit 1, which is a map of the city showing the voters by colored dots groups has been stipulated to.

Government Exhibit No. 2, an acetate overlay and statistics of the current plan has been stipulated to.

Exhibit No. 3 is an acetate overlay and statistics of the Monroe Plan proposed January 13, 1972, has been stipulated to.

Exhibit No. 4, an acetate overlay and statistics of plan in ordinance 4796 has been stipulated to.

Exhibit No. 5, an acetate overlay and statistics, a plan in ordinance 5154 has been stipulated to.

Exhibit No. 6, an acetate overlay and statistics [672] and plan proposed by the NAACP have been stipulated to.

Exhibit No. 7, an acetate overlay and statistics of plan proposed by the Republican Party in Orleans Parish, has been stipulated to.

Exhibit No. 8, contains various newspaper articles dealing with the question of redistricting in the City of New Orleans, that has been stipulated too.

Exhibits No. 9, 10, 11, 12, and 13, have been withdrawn.

Exhibit No. 14 is a list of registered voters by precinct numbers as of April 1972. That has been stipulated to.

Exhibit No. 15, a letter from John A. Echert, an employee of the City Council Research Staff to an attorney with the Department of Justice, dated December 11, 1972, setting out the residence of incumbent councilmen has been stipulated to.

Exhibit No. 16, a transcript of public hearings held by the city council on February 16 and 17, 1972, on the question of redistricting has been stipulated to.

Exhibit No. 17 has been withdrawn.

Exhibit No. 18, a summary of the city councilmen I think held on April 19, 1973, has been stipulated to.

Exhibit No. 19 has been withdrawn.

Exhibit No. 20, a memorandum to the city council from the NAACP January 20, 1972, setting out a [673] redistricting plan proposed by the NAACP has been stipulated to.

Exhibit No. 21, a letter to the city council from the Republican Political Action Committee dated April 18, 1972, setting forth a proposed redistricting plan, has been stipulated to.

Exhibit No. 22, a copy of an ordinance calendar No. 5194 introduced by Councilman Monroe, January 13, 1972, has been stipulated to.

Exhibit No. 23, the transcript of the deposition of Gregory Smith taken by the United States, has been stipulated to.

Exhibit No. 24, the transcript of the deposition of Mr. James Pezant has been stipulated to.

Exhibit No. 25, the transcript of the deposition of Mr. John A. Echert has been stipulated to.

Exhibit No. 26, a compilation of statistics from Defendant's Exhibit 2 to 7 has been stipulated to.

Exhibit No. 27, guidelines for the enforcement of the Voting Rights Act of 1965 has, I believe, been previously admitted, and if not, it has been stipulated to.

Exhibit No. 28, the returns of an election by precinct for the November 3, 1970 Schoolboard Election has been stipulated to.

Exhibit No. 29, the returns for elections conducted November 6, 1965, and December 11, 1965, in the Democratic [674] Primary has been stipulated to.

Exhibit No. 30, the returns for Democratic Primaries held on November 8, 1969 and December 13, 1969 have been stipulated to.

Exhibit No. 31, a publication entitled Wards of New Orleans, published by the Bureau of Governmental Research, 822 Perdiddo Street, New Orleans, Louisiana, has not been stipulated to.

Judge Robinson: And that is what number?

Mr. Shurtliff: No. 31.

Judge Waddy: Are you proffering it?

Mr. Shurtliff: I am proffering it, Your Honor.

Judge Corcoran: What is it again?

Mr. Shurtliff: It is a publication entitled Wards of New Orleans.

Exhibit No. 32, returns of election of March 20, 1973, on a proposed charter amendment has been stipulated to.

Exhibit No. 33, returns of an election conducted November 7, 1972, on a proposed charter amendment have been stipulated to.

That concludes the documentary evidence offered by the Government with the exception of Exhibit No. 31, and that [675] has been previously agreed on and stipulated to by counsel.

Judge Robinson: I would like to take and inventory on this. The last exhibit number stipulated to is what, Mr. Shurtliff.

Mr. Shurtliff: Thirty-four, Your Honor.

Judge Robinson: New, according to my notes, you are proffering at this time a series of exhibits numbered 1 through 34, with the exception of withdrawn exhibits which are Nos. 9, 10, 11, 12, 13, 17 and 19, and with the possible exception of No. 27, which may already be in, otherwise you are moving its admission at this time, and lastly with the exception of No. 31, which is not stipulated to; is that correct?

Mr. Shurtliff: That is correct, Your Honor.

Judge Robinson: You mentioned a stipulation in regard to those I have mentioned, not the exceptions, of course, between the Government and the plaintiff.

Are the Intervenors a party to that stipulation?

Mr. Halpin: Yes, Your Honor, we will agree with the stipulation.

Judge Robinson: I take it there is nothing further the Court needs from counsel in order to admit these exhibits into evidence?

They will be received.

[676] [Exhibits just before referred to were received in evidence.]

Judge Robinson: Now, did you have any further presentation that you wished to make to the Court with reference to Exhibit No. 31?

Mr. Shurtliff: I would proffer at this time, Your Honor, I took up the question of the stipulation with counsel for plaintiffs, they would not agree to stipulate its admission. I do not know the grounds. However, I would proffer it.

Judge Robinson: Very will.

First, Mr. Treese, let me ask you this: You didn't stipulate to it. Do you object to it?

Mr. Treese: Yes, Your Honor, we do.

Judge Robinson: What is the basis of the objection?

Mr. Treese: The basis of the objection is we were first confronted with the possibility of this document as evidence late yesterday after. We would prefer to confront the author of the document because there are many opinions stated throughout the document.

Secondly, there are many notations, the author of whom we do not know, throughout the entire document, which I feel would be quite self-serving to the Government's case.

Judge Robinson: Is the author of the document present in attendance here?

Mr. Treese: No, Your Honor.

[677] Judge Robinson: Where is he or she, Mr. Shurtliff?

Mr. Shurtliff: Your Honor, we do not know the name of the author of the publication. The preamble to the publication indicates that it is a publication of the Bureau of Governmental Research of the City of New Orleans.

There is no listing of an author. We have had previous testimony from Counselman Beer as to what the Bureau of Governmental Research is in New Orleans.

Judge Waddy: That is a question I wanted to ask you. Do you know whether this is an official body of the city?

Mr. Shurtliff: It is not, Your Honor. It is a quasi-public organization devoted to the study of government, and governmental agencies, the function in the city. It has performed on various occasions numerous functions. Councilman Beer testified that the Bureau of Governmental Research Staff, for instance in the development of statistics for the City of New Orleans from the 1970 Census.

As to the question of the authenticity of the document, we would submit——

Judge Robinson: First, you would help me, Mr. Shurtliff, if you tell me what purpose you expect to be served by getting it into evidence.

Mr. Shurtliff: We believe, Your Honor, that the [678] publication will be of some service to the Court and to the parties in that it sets out a history of the development of wards in New Orleans, and has been the subject of some testimony at the hearing here.

Judge Robinson: Is this a published document, published in any shape or form?

Mr. Shurtliff: It is, Your Honor.

Judge Robinson: Where is the document?

Mr. Shurtliff: This is the copy that I had marked.

Judge Waddy: Is the objection to the authenticity or to the relevance?

Mr. Treese: It is not the best evidence, Your Honor. That is basically it. We have not had an opportunity to confront the author of the document. It was just placed in front of us yesterday for the first time. As I have also indicated, there are these handwritten notations throughout the document.

Judge Robinson: Well, I am going to try to clear that up with counsel.

Mr. Treese: I will skip over that. My objection to the document is we have no opportunity to cross-examine the author as to opinions and other statements throughout the document.

Judge Robinson: Are you separating now—I thought you did earlier—the statements that purport to be a [679] fact

and the opinions including the handwritten notations that you made reference to?

Mr. Treese: I will separate those two. Your Honor said you would take care of it.

Judge Robinson: Are you objecting to the factual content of the document as distinguished from statements in it?

Mr. Treese: Quite frankly, Your Honor, as you can see, it is voluminous. I haven't had an opportunity to check that with the research staff of the city council.

Judge Robinson: Why don't we pass that over, gentlemen, and give counsel that opportunity. It is a reasonable request. He is confronted with these materials, as I understand it, late on yesterday.

Mr. Shurtliff: I have no objection to that, Your Honor. However, I do believe that we provided a copy of this publication for counsel.

Judge Robinson: You have?

Mr. Shurtliff: At the earlier hearing on this matter. We did not ask them to stipulate to it, but it is my understanding that they have had a copy of the publication for some time.

Judge Robinson: Certainly it is not crucial to the Government's presentation that the Court rule on this at the present time.

Mr. Shurtliff: It is not.

[680] Judge Robinson: All right. We will indulge you then and you have the opportunity, Mr. Treese, we will make a ruling before the hearing closes.

Are you certain now, you do not have these materials? If you are certain that you don't have them, you may borrow these.

Mr. Treese: No, I have that document.

Judge Robinson: Oh, do you?

Mr. Treese: I have that document, with the same handwritten notations, I don't know who made those.

Judge Robinson: Well, let me clear that up. Are you moving the document in with or without the notations that are it?

Mr. Shurtliff: Without.

Judge Robinson: So that would eliminate the notations?

Mr. Treese: I would prefer a clean document.

Judge Robinson: What about statements of opinion?

Mr. Shurtliff: We would prefer it without statement of opinion.

Judge Robinson: Just the factual materials.

Mr. Shurtliff: Your Honor, we believe the factual materials would save research time because it was traceable to the original source. For instance, it says in 1912 charter, it set out that if there is any question as to the veracity of [681] that statement the 1912 charter could be checked, but it is a good reference material is why we offer it.

Judge Robinson: All right, gentlemen. I think the problem is defined, as I have said.

Judge Waddy: Let me ask you one question, Mr. Shurtliff. Is it the type of document that the Court, if it were writing an opinion, could have access to in support of its position?

Mr. Shurtliff: I believe that it is, Your Honor.

Judge Robinson: That would be on the basis of publication?

Mr. Shurtliff: Publication.

Judge Robinson: Why don't you gentlemen try to get together and give us some information when we resume on this question as to how widespread the distribution of this document was. It seems to me the question of admissibility could be affected by that among other considerations.

Mr. Shurtliff: Very well, Your Honor.

Judge Robinson: Very well.

It take it that the Government rests, does it, at this point?

Mr. Shurtliff: We rest at this point, Your Honor.

Judge Robinson: Very well. Counsel for the intervenors may proceed.

Mr. Halpin: We would like to call as our first [682] witness Johnny Jackson, Jr.

Thereupon,

Johnny Jackson, Jr.

sworn, was examined and testified as folows:

Direct Examination

By Mr. Halpin:

Q. Could you state your name for the record, please? A. My name is Johnny Jackson, Jr.

Judge Waddy: Jackson?

The Witness: Jackson.

By Mr. Halpin:

Q. And are you an elected official, Mr. Jackson? A. Yes, I am. I am a state representative from District 101 from Orleans Parish.

Q. And when were you elected to that position? A. In, I believe, '72.

Q. And for the record, your race is black? A. I am black.

Q. Prior to that time did you hold any elected political office? A. No, I did not.

Q. Have you ever run for political office prior to that time? A. Prior to that time I neither ran for office nor [683] held any elective office.

Q. Prior to that time had you been active in campaigning for other candidates in general? A. On numerous occasions.

Judge Waddy: I believe you have your mouth a little too close to the microphone.

By Mr. Halpin:

Q. All right. Are you a registered voter? A. Yes, I am.

Q. When did you first register to vote? A. I believe it was in 1966 or '67, something like that.

Q. And did you conduct any activities relative to voter registration for black citizens? A. Yes. On several occasions prior to '65 and after '65, after the Voting Rights Bill, we did conduct several voter registration campaigns.

Q. Have black people ever had any difficulty to register to vote in Orleans? A. Yes, they have.

Q. Could you generally describe some of those difficulties? A. Well, I remember a time when you used to gather people, bring them down to the city hall where they only have one station, and people were being turned away for lack of evidence of living in the district, a certain period of time, [684] not having enough information, having receipts that showed that they rent but those receipts not being validated by the landlord, something like that.

Q. Are you generally familiar with the segregation or desegregation of the Orleans Parish Schools?

Mr. Treese: May it please the Court: that calls for an assumption, it is also a leading question. I would object to it.

Judge Robinson: I don't know that it was leading, but it certainly can be reframed.

Reframe the question.

Mr. Halpin: I will reframe it.

Judge Robinson: Mr. Jackson do not answer the question until we determine whether it should be answered or not.

By Mr. Halpin:

Q. Are you familiar—to your knowledge, has there been any racial segregation in the schools of New Orleans, and if so, in what times and what is your knowledge about that?

Mr. Treese: I do think that is leading, Your Honor, and I would object to it.

Judge Robinson: Well, I wouldn't think it is suggestive of an answer. Your objection is only to the question of form?

Mr. Treese: That's right.

[685] Judge Robinson: Objection will be overruled.

You may answer.

Do you understand the question?

The Witness: Can you just rephrase it, Judge, at least say it over again for me?

By Mr. Halpin:

Q. All right. Could you generally state what you know relative to the segregation or desegregation of public schools? A. Well, I lived in New Orleans all my life and for all my life—I am 30 years of age now—that prior to the Supreme Court's decision rendering segregation of schools unconstitutional, that our schools were totally segregated.

After that decision and even to the present date the population of our schoolboard, of our school system, is approximately 80 percent black and to a large degree is still segregated.

At athletic activities, I remember just recently, in the early 60's, one school was—schools began to participate in integrated activities.

Judge Robinson: Just a minute, Mr. Halpin.

Mr. Jackson, could I ask you to lean back off the microphone just a little? If it doesn't pick up your voice, we will let you know. We are having a little trouble understanding you.

The Witness: All right.

[686] Judge Robinson: Very well, you may proceed, Mr. Halpin.

By Mr. Halpin:

Q. To your knowledge has there been any segregation of public facilities in the City of New Orleans, and if so, please briefly describe.

Mr. Treese: Your Honor, I am going to object again to the form of this question. Of course, I would like to have a running objection as to the relevancy and Your Honor previously ruled on that question.

Judge Robinson: Yes.

Mr. Treese: But the form of questions, the way presented, I have no way of anticipating what the response would be. Would you discuss generally this subject. I wish counsel would present the questions in a light that I can be prepared for some sort of answer.

Mr. Halpin: If it may please the Court: the only reason I am using this form is to expedite matters. I can take my time and go step by step, but I think it would take a lot more time.

Judge Robinson: Instead of doing it in one question, you can do it in two. Inquire of this witness. It will not take that much longer.

Mr. Halpin: I will go ahead and do it step by step.

[687] Judge Robinson: Very well.

By Mr. Halpin:

Q. Mr. Jackson, are you generally aware of the condition of public facilities in New Orleans relative to equal access by black people? A. Yes, I am.

Q. And now, in your own experience do you know of any instances wherein blacks have been discriminated against in the use of those public facilities? A. Yes. Prior to——

Judge Robinson: Just a moment, Mr. Jackson. I will have to ask you to move closer.

Judge Waddy: Just talk a little louder.

The Witness: Yes.

Prior to around '69 there was blatant, in my opinion, just blatant segregation consisting in the use of public facilities. For instance, we used to have around Christmas time a situation where toys were being given out to the unfortunate of the city, and one day you had to go to public facilities whites would go, and on the next day blacks would go.

And access to some of the city hall restaurants at one time blacks were being denied admission to the restaurant and access to those that were put on the municipal auditorium at one time blacks were not allowed to participate selectively [688] with white citizens of the city.

Judge Waddy: Mr. Jackson, I am sitting right close to you and I am having difficulty hearing you. I think you can talk louder than you are talking.

The Witness: Yes, Judge. I wanted to inform the Court I do have a problem with my voice.

Judge Waddy: I see.

By Mr. Halpin:

Q. Are you generally familiar with public employment in New Orleans? A. Somewhat.

Q. To your knowledge do you have any information relative to the hiring of blacks in public positions in New Orleans? A. We are presently having problems—when I say we, blacks in the City of New Orleans are presently having problems in getting significant positions in public employment.

Now, there is a suit presently being filed against our police department for discrimination where you have the city with a population approaching 50 percent black, you presently have less than 10 percent of a force of black officers.

Also in our firemen, with the population approaching 50 percent black, we have somewhat like one or two percent of employees being black. And the gamit of civil service jobs [689] per se I doubt very seriously if we have over the work force of 20 percent black and when you compare the various positions, talking about meaningful positions in tems of supervisory positions, there are few if any blacks holding those positions.

Q. Are you generally familiar with black political organizations in New Orleans? A. I am.

Q. Could you name a few of those? A. You have Southern Organization for Unified Leadership. You have BOLD, Ninth Ward Voters' League, you have the COUP, OPPVL, just to name a few.

Q. Okay. Are any of these organizations city-wide political organizations? A. Most of these organizations are

based in a particular area of the city. I think that on a limited basis OPPVL attempts to city-wide.

Judge Corcoran: Clarify for me what that is.

The Witness: Orleans Parish Progressive Voters League.

By Mr. Halpin:

Q. Generally, of the organizations that you mentioned, could you state generally when those organizations were formed? A. I am familiar with the fact that SOUL, BOLD and COUP were formed around '68, '69, around that period of time. OPPVL, I am not as familiar as I ought to be with when it was [690] formed, but most of the black organizations came into existance around '66, '67, '68.

Q. Can you explain in any way why these organizations happened to come into existence around this time? A. One of the reasons that most of these organizations were formed during this time was because the increase in the ability for blacks to become registered voters, that was one reason.

Another reason was that the support of black spirants for certain elective offices, were two of the main reasons that they came into existance.

And thirdly, which is to try to begin to effectively running black candidates, you know, for office.

Q. Are you generally familiar with the amount of financial resources which are necessary for running various political campaigns in New Orleans? A. Somewhat.

Judge Robinson: Just a moment.

Mr. Treese: I will wait for the next question.

Judge Robinson: I am sorry, I didn't get the answer.

The Witness: Somewhat.

Judge Robinson: Somewhat. All right. Thank you.

By Mr. Halpin:

Q. Generally, could you indicate the relative resources [691] that black candidates who you are familiar with may have for conducting campaigns compared to that of white candidates?

Judge Robinson: All right, Mr. Treese?

Mr. Treese: This goes back to our continuing objection on relevancy, Your Honor. I don't see where the campaign finances of local elections in the City of New Orleans have anything to do with the adoption of a plan that was presented to this Court.

Judge Robinson: I am going to overrule the objection for the time being. You will recall the Court's admonition earlier this morning.

Mr. Halpin: Yes, Your Honor. I do not intend to go far afield, but this is one of the elements considered.

Judge Robinson: He may answer this question, but as the Court indicated, we will be scrutinizing the questions.

You may answer. Do you have the question, Mr. Jackson?

The Witness: As I understand the question——

Judge Robinson: Just a moment.

Repeat the question.

Mr. Halpin: All right.

By Mr. Halpin:

Q. Could you generally compare the financial resources of black candidates for public office in New Orleans with that of white candidates that you are familiar with, to your knowledge? [692] A. To my knowledge, basically the resources, the financial resources, as compared to those of white candidates are very limited. Normally black candidates do not have the kind of campaign funds and monies necessary to run an effective campaign.

Usually, you have to sell suppers, give rallies, solicit, you know, donations, things like that. Blacks' financial resources can nowhere compare, in my opinion, to white candidates.

Q. Are you familiar, generally, with the majority requirement in certain Louisiana elections? A. Right.

Q. Could you generally describe what that requirement is in your understanding?

Judge Robinson: Just a moment.

Mr. Treese: Your Honor, the previous witness was asked this line of questioning and we objected at that time.

Judge Robinson: Yes. Do you object on the same grounds?

Mr. Treese: Yes.

Judge Robinson: The objection is overruled.

You may answer.

The Witness: I believe under the statute it requires that candidates in primary elections must receive a majority vote in order to be elected to that office, that they are [693] aspiring for. That does not, as I understand it, apply to the general election, well, that's the final date at which time you know candidates are elected, but generally that's my appreciation of the statute.

By Mr. Halpin:

Q. All right. In the primary elections, what effect, for instance, that you know of, does this have on black candidates?

Judge Robinson: Just a moment. For what office, primaries, for what offices?

By Mr. Halpin:

Q. Okay. Primary elections for any general elective political office such as city councilman, state legislature to which this law is applicable.

Judge Robinson: You may answer the question, Mr. Jackson.

The Witness: If by chance that a black nominee, a black candidate is fortunate to be in the run-off as a result of the first primary election that in the second primary run-off my experience, my observations have been that it puts them at a disadvantage because he head up with a white candidate, and oftentimes means that he would not be the Democratic nominee for the general election and he would lose.

Q. All right. Can you give any examples of that sort of thing happening from your knowledge? [694] A. Yes. I

think in the case of Teddy Marchand, you know, he lost when there was a head up election.

Q. Why don't you state what office he was running for? A. He ran for state representative.

Q. In what year, approximately? A. I believe that was '71 or '70.

Q. All right. I think that would be sufficient in answer to my question.

Can you think of any other particular election, stating the time and date, where this would be? I am referring to Democratic primary elections. A. There aren't too many blacks. In fact, I can't recall of any blacks that basically have participated in the run-off. I know there have been few who have gotten to the second primary, but the one I do remember is Teddy Marchand.

Q. Okay. Are there frequently general elections for various political offices in New Orleans? A. Oftentimes by the time you get to the general election the office has been decided because normally in general election unless there is Republican opposition, the candidate is really chosen in the first and second primary.

Q. Are you familiar with the Anti Single Shot Voting requirement in Louisiana law? A. Somewhat, yes.

Q. Could you generally describe to us your knowledge of [695] what that requirement is? A. The Anti Shot Voting—

Q. Anti Single Shot Voting requirement? A. It's a requirement whereby if there are two candidates in a particular race, or there are several candidates in a race, and there are two offices, two seats available for that particular office, then a voter would have to cast two votes, one, I assume one for the candidate, at least for two candidates basically.

Q. Does this have any affect upon black candidates? A. Generally it does because the results are that a black candidate, let's say, among a race of four candidates, and he is the only black candidate in that race, generally what happens that while a vote is being cast for him, a vote is

also being cast for other candidates in the race, and he does not get, in my opinion, he does not get his fair share of the votes. And what happens is that it works, in my opinion, to the detriment of black candidates.

Q. Are the two at-large seats in New Orleans elected under a system which does apply to Anti Single Shot Voting? A. Yes.

Q. Could you generally state your position as to at-large elections for city council in the City of New Orleans?

Judge Robinson: The objection will be sustained as to the form of the question Let's get specific, Mr. Halpin.

[696] Mr. Halpin: All right.

By Mr. Halpin:

Q. Are you generally familiar with at-large elections in the City of New Orleans? A. Yes, I am.

Q. Do you have a position relative to the effect of that scheme upon black political strength in New Orleans?

Mr. Treese: Your Honor, I would object.

Judge Robinson: As to form or substance?

Mr. Treese: Both.

Judge Robinson: Well, I will hear you on the question of form, but it is understood in view of the Court's ruling this morning that you have a continuing objection to any and all evidence coming down this line. The court understands it won't be necessary to object.

Mr. Treese: I would object on another ground, Your Honor, and that is it has no probative value from this witness. We haven't qualified this witness as an expert in matters of political science, this is a representative who is a party.

Judge Robinson: If he will pardon the intrusion, I thought your objection to the form of the question went to that matter since as I understood the question it called on the witness to state a position, and I am not so sure as to what that is asking the witness to do.

[697] Mr. Treese: All right.

Judge Robinson: What do you want from the witness? Are you calling for an opinion from this witness as an expert? Are you asking him to state facts within his knowledge?

Mr. Halpin: No, Your Honor. I am driving toward—he mentioned he is familiar with particular elections and so forth and so on. I am driving toward asking him whether based upon his personal knowledge whether he can say anything relative to the racial discrimination or non-racial discrimination of at-large elections in New Orleans.

Judge Robinson: Well, he can state it as a matter of fact or as a matter of opinion.

Mr. Halpin: I think the answer will probably border on both, Your Honor, to be perfectly honest.

Judge Robinson: All right. But you haven't qualified this witness as an expert in the field.

Mr. Halpin: Yes.

Judge Robinson: Do you want leave to do so?

Mr. Halpin: No, Your Honor.

Judge Robinson: Why not ask him what the facts are and let's see where that leaves the situation.

Mr. Halpin: All right.

Judge Robinson: Reframe your question.

By Mr. Halpin:

Q. Are you generally familiar with the at-large [698] elections for city council in New Orleans, the past elections? A. Yes, I am.

Q. Okay. Are you familiar with the election which Ernest Morial ran at-large for council of the City of New Orleans? A. Yes, I am.

Q. Can you describe generally what happened relative to Mr. Morial's candidacy in that election?

Mr. Treese: May it please the Court: this is another one of those "can you describe generally what happened."

Judge Robinson: He can state what he knows about it. The objection is overruled.

You may answer, Mr. Jackson. You are being asked, Mr. Jackson, to state only what you know about a matter concerning which counsel inquired.

The Witness: Yes.

By Mr. Halpin:

Q. Did he win in the first primary? A. I believe he did.

Q. What happened in the second primary, do you recall approximately what sort of opponent he had and what the results of that was?

Mr. Treese: That's three questions, Your Honor.

Judge Robinson: Yes. Let's single the questions down one by one.

[699] Mr. Halpin: All right.

By Mr. Halpin:

Q. Do you recall whether he won in the second primary? A. I believe he lost in the second primary.

Judge Corcoran: I can't hear you, Mr. Jackson.

The Witness: I believe he lost in the second primary.

By Mr. Halpin:

Q. Do you recall what the race of his opponent in the second primary was? A. White.

Judge Robinson: What was your answer, Mr. Jackson?

The Witness: I believe white; I believe he was white.

Judge Robinson: I didn't hear you.

The Witness: I believe he was a white candidate.

Judge Robinson: I'm sorry. Very well.

By Mr. Halpin:

Q. In view of the knowledge that you have just indicated in regard to the history of discrimination and the various other political devices, can you state what effect these devices and history has upon at-large elections in the City of New Orleans?

Judge Robinson: Now, just a moment. Let's make it plain to the witness that you are still calling for facts because [700] you have not yet qualified him as an expert.

Mr. Halpin: Yes.

By Mr. Halpin:

Q. From your own knowledge——

Judge Robinson: Do you still have an objection?

Mr. Treese: I got lost in the middle of the question. I would like to ask the Court if I might have the question reread.

The Court: Certainly. Well, we will have the question reframed to incorporate the feature the Court suggested.

By Mr. Halpin:

Q. From your own knowledge, please state the effect that the history of discrimination which you have testified to and other structural factors in the election law which you have testified to, have upon at-large elections for city councilmen in New Orleans.

Judge Robinson: Can you answer that question, Mr. Jackson, of your own personal knowledge?

The Witness: I believe I can, Judge.

Judge Corcoran: Or is it just an opinion? Are you going to give us facts or opinion?

The Witness: I hope to give the Court facts.

Judge Robinson: Very well. You may answer the question.

The Witness: It is a fact that there exists black voting in the City of New Orleans. And when you have a candidate [701] running at-large that the fact of black voting weighs heavily against black candidates who are running at-large, and a lot of this is due based upon the kind of racial history that has been characterized in the City of New Orleans.

Secondly, I believe that, and I know for a fact, that city-wide elections and the single shot, Anti Single Shot Voting tends to work, and has worked against black candidates, particularly in at-large elections.

Thirdly, the kind of funds that necessitate an effective campaign on the part of black candidates are not readily

available to him in an at-large election, it takes a tremendous amount of monies to run, for a black candidate to run city-wide.

Fourthly, I personally know as a matter of fact that it takes the endorsement of major white organizations in addition to and support of the black communities to elect black candidates.

And to some degree that has worked against black candidates in my belief is that city-wide elections tend to be discriminatory against blacks.

Mr. Halpin: Thank you. I will have no further questions of the witness in view of the evidence that we took of him by deposition.

Judge Robinson: So I take it then the question of possible testimony by Mr. Jackson as an expert is going to be [702] foregone, is that correct?

Mr. Halpin: Well, I would.

Judge Robinson: It is a decision for counsel to make. I simply made a suggestion.

Judge Waddy: You made your decision that you were not qualifying him as an expert.

Mr. Halpin: Yes.

Judge Robinson: I just wanted to be clear.

Mr. Halpin: Yes, Your Honor, I had not qualified Mr. Jackson as an expert in political affairs, but consider that his testimony should be weighed as the testimony of other witnesses in this regard has been weighed throughout the hearing.

Judge Robinson: Very well.

Mr. Treese?

Cross-Examination

By Mr. Treese:

Q. Mr. Jackson, did you testify that you were 30 years old now? A. Yes, I am.

Q. So when was the earliest possible date when you could have registered to vote? A. At 18.

Q. When you were 18? A. At the time that I registered I was 21.

Q. Yes. When was that now? [703] A. That was nine years ago.

Q. Now, you have testified about—I don't know exactly the period of time, but you said you can recall in the old days when there was a delivery of Christmas gifts to the unfortunate, I think you called them. A. Right.

Q. And this you chose as an example of segregation in public facilities; is that correct? A. As one of the examples.

Q. Isn't it true that that program was conducted by the Times-Picayne newspaper, a private newspaper in the City of New Orleans? A. Yes, with the supporters.

Q. What kind of supporters? A. Times-Picayne received endorsements, and at that time members of the city government attempt to use their influence, whether they be city council members or be persons in elective office, attempt to get those endorsements in to the Times-Picayune.

Q. Mr. Jackson, in describing the hiring practices for the City of New Orleans, I believe you testified that few if any blacks hold positions of responsibility within the City Government of New Orleans; is that right? A. I said in supervisory positions.

Q. Isn't it true that the deputy chief Turner is a [704] black? A. Yes.

Q. And before him Deputy Police Chief Cates was a black? A. Yes.

Q. And the mayor's administrative assistant, Mr. Tucker, isn't he a black? A. Right.

Judge Robinson: Just a moment. Did you want to——

The Witness: Yes, I just wanted to say that of the persons that you mentioned, Mr. Treese, that maybe you ought to ask me what do I define as supervisory positions. I did say——

Judge Robinson: Just a moment, Mr. Jackson. Counsel will ask the questions that he wants you to answer.

The Witness: All right.

Judge Robinson: You may proceed, Mr. Treese.

By Mr. Treese:

Q. What in your mind is a supervisory position? A. Those positions whereby a person makes policy decisions concerning matters of a particular department.

Q. Do you know who Cecil Carter is? A. Yes.

Q. What position does he hold? A. Director of Human Relations.

Q. And he is black? [705] A. Yes.

Q. Are any members of the Planning Commission black? A. I believe there may be one.

Q. Isn't it true that between 35 and 40 percent of the city payroll is black? A. I am not sure.

Q. Your father works for the City of New Orleans, doesn't he? A. Yes, he does.

Q. As a matter of fact, isn't he running for elective office right now? A. Yes, he is.

Q. For sheriff? A. Yes, he is.

Q. And I believe you have testified as to the difficulties of raising money? A. Right.

Q. As a black candidate. You are not saying, are you, that blacks only collect or try to gain donations through the black community, are you? Don't you solicit funds from the white community too? A. I assume black candidates do.

Q. You personally solicited funds on behalf of the white community for your father's election? A. I don't recall. [706] Q. You don't recall that. Are you familiar with the civil service system in te Cty of New Orleans? A. Yes, I am.

Q. And are you familiar with the fact that in order to obtain employment in the City of New Orleans there are certain entrance requirements? A. Yes.

Q. In some cases testing? A. Yes.

Q. And do you believe that is discriminatory in a civil service system? A. The method—we have looked at civil

service, and it is our opinion that civil service uses the rule of three, that even in some cases when blacks are passing let's say the entrance exames, that allows the department head to select from the civil service roll which employee that he or she wants.

Q. All right. Now, you said "we." Who is "we?" A. When I say "we," I am talking about concerned blacks in the City of New Orleans, myself, representative Marchand.

Q. Now, Mr. Jackson, with regard to this majority system in the City of New Orleans as it exists, I believe you said that that situation which ultimately results in a black head on with a white, it works to the detriment of a black; is that essentially your testimony? A. Essentially, yes.

[707] Q. Doesn't the City of Atlanta have exactly the same system? A. I would assume so.

Q. Yes. Are you familiar with the results——

Mr. Halpin: I object to the question on the basis that whatever has happened in Atlanta or Indianapolis or anywhere else has anything to do with this case.

Judge Robinson: This is cross-examination of the vitness on a matter concerning which you inquired. Your objection is overruled.

You may answer the question, Mr. Jackson. Do you have the question? The question is are you familiar with—I believe your words were the situation in Atlanta. Perhaps you better clarify.

By Mr. Treese:

Q. Are you familiar with the mayor's race in Atlanta several days ago? A. I am familiar with the results of the mayor's race.

Q. Wasn't that in fact a situation where a white was head on with a black on a city-wide basis? A. In Atlanta, yes.

Q. Hasn't the same thing happened in the City of Los Angeles? A. Yes.

Q. And as a matter of fact hasn't it also happened in [708-715] the City of New Orleans on a city-wide basis in the case of Judge Morial, Judge Augustine and Dr. Spear? A. As I appreciate it about the City of New Orleans, Judge Morial and we are talking about people who are being let's say packaged for particular elective offices, but I can say very candidly, yes, Judge Morial did run for the Court of Appeals, I believe against a white, and I think he later withdrew or got sick.

Judge Augustine and Dr. Spears, Dr. Spears was one black among many candidates running for the schoolboard and Judge Augustine, as I recall, was elected in the same manner.

Judge Robinson: When you reach a point at which it would be convenient to suspend your cross-examination, we will take the recess for lunch.

Mr. Treese: I am there.

Judge Robinson: Very well. At this point this Court will stand in recess until 1:45 this afternoon.

The Deputy Marshal: All rise. This Honorable Court stands recessed until 1:45.

[Thereupon, at 12:30 o'clock p.m., Court recessed until 1:45 o'clock p.m.]

[716] AFTERNOON SESSION

(Trial in the above-entitled matter was resumed at 1:45 o'clack p.m., at the conclusion of the luncheon recess.)

Whereupon. . . .

Johnny Jackson, Jr.,

the witness on the stand at the time the luncheon recess was taken, resumed the stand and testified further as follows:

Mr. Treese: I have no further questions, Your Honor.

Judge Robinson: Very well, Mr. Halpin.

Mr. Halpin: I thought perhaps the Government would inquire.

Judge Robinson: I beg your pardon. All right.

Cross-Examination

By Mr. Friends:

Q. Mr. Jackson, I believe this morning you indicated that you are a fulltime state legislator? A. Yes, sir.

Q. Did you have any employment prior to working fulltime in the legislature? A. About two months ago I functioned as a state legislator and at the same time I was an Executive Director of the Desire Community Center. I have since resigned that job to devote full time to my representative responsibilities.

Q. What was the function of the Desire Community Center? [717] A. The Desire Community Center is a federally funded agency designed to provide recreation, cultural and educational opportunities for resdents of the area known as Desire Florida which is in District E in the City of New Orleans.

Q. Do you reside in District E? A. Yes, I do.

Q. What is the racial composition of your neighborhood? A. The neighborhood in which I live is one hundred per cent black.

Q. Are you aware of the city services provided to the black community in District E? A. Yes, in some portions of District E.

Q. During the past two years, have those services improved or increased? A. Yes, services have increased somewhat. In most cases, those services have increased as a result of the federal programs, Urban Renewal, Model Cities. In fact, in District E alone you have two large neighborhoods that have been designated as Urban Renewal and Model Cities areas.

Q. To your knowledge, has the city services that are provided by the City Council improved? A. Whatever improvements have been generated, I will suggest that there have been some improvements, mostly as a result of the federal monies, and that must go, as I appreciate, to the City Council for designated projects in those areas. [718] Q. Are you familiar with the referendum election

held in November of 1972 to increase the size of the City Council? A. Yes, I am.

Q. Do you know what groups campaigned for the passage of that act? A. Mostly—in fact, the only groups that I know that campaigned for the passage of the expansion of the City Council, actively campaigned, were groups of the black community.

Q. Are you aware of any white groups that campaigned for the passage of that act? A. No, I am not.

Q. Are you familiar with the referendum election held in March of 1973 to increase the Council? A. Yes.

Q. Did the same groups—— A. Yes.

Q. —campaign for that? A. Yes, they did.

Q. Were there any white groups that campaigned for that? A. Not to my knowledge.

Q. Mr. Jackson, since you have been in the legislature, have you had occasion to have the legislature itself deal with subjects concerning laws prescribed in segregation? A. Yes, I have.

Judge Robinson: Prescribe or proscribe?

[719] Mr. Friends: Prescribe.

The Witness: Yes.

By Mr. Friends:

Q. When was that done? A. In '72 we were able to remove from the statutes certain laws.

Judge Robinson: Wait just a moment.

Mr. Treese: If Mr. Jackson is now testifying about laws that were passed by the state legislature that he was a member of, I would object on the grounds of relevancy. We haven't dealt with the state machinery as far as I know in this case.

Judge Robinson: All right, Mr. Friends, what is the relevancy?

Mr. Friends: Mr. Jackson is a state legislator from the City of New Orleans and in addition to presenting issues that deal with the state generally, he is also concerned with the City of New Orleans. The relevancy is that he, as

one of the black legislators—that is the only opportunity that these issues have been brought before this state, which also affected the City of New Orleans.

Judge Robinson: Well, if I understand you correctly, you don't have the right question to make that inquiry. Your approach—well, I think I have your approach. I don't want to influence the testimony of the witness. I am going to [720] sustain the objection to the question. I will let you reframe it if you wish.

Mr. Friends: I will strike that question, Your Honor. We have no further questions.

Judge Robinson: Now Mr. Halpin:

Redirect Examination:

By Mr. Halpin:

Q. Mr. Jackson, you stated that there is a black deputy Superintendent of Police. Are there other Superintendents of Police at a same level? A. Yes, I believe there are two other persons who are deputy superintendents.

Q. And what is their race? A. They are white.

Q. You were also asked whether there was a black criminal district judge and you stated yes, Judge Israel Augustine. Do you know how many criminal district judges there are in New Orleans? A. I think there are about nine or ten.

Q. Are any of the others black? A. You have one black that is a magistrate judge in the criminal district court. I understand of the criminal judges there is only one.

Q. And how many black members are there on the New Orleans School Board? [721] A. One.

Q. Do you know how many members there are on the School Board? A. I think there are five.

Judge Waddy: How many?

The Witness: I think there are five.

By Mr. Halpin:

Q. You indicated that Judge Earnest Morial was elected to the Fourth State Circuit Court of Appeals. Do you know

offhand how many judges sit on that court? A. No, I don't right offhand. I think the number is somewhere around six or seven.

Q. Do you know of any other black persons besides Judge Morial that sit on that court? A. No, I don't.

Mr. Halpin: No further questions.

Judge Robinson: Anythng further? Mr. Treese?

Mr. Treese: Several questions, Your Honor, that have been raised by Mr. Friends.

Recross-Examination:

By Mr. Treese:

Q. Mr. Jackson, with regard to the expansion of the Council referendums that went to the people and which Mr. Friends has just asked you about, he asked the groups who supported it. Didn't the present City Council pass favorably [722] on those referendums before they went to the people? A. As a matter of procedure, yes; yes, they did. But my impression was when he talked about groups that he meant organizations. I didn't know he was referrng to the City Council.

Mr. Treese: It was a misunderstanding. That's all I have.

Judge Robinson: All right, gentlemen, have you all finished with this witness? I take it he may be excused.

Mr. Jackson, you are excused as a witness, although you are free to remain in the courtroom if you wish.

(Witness excused.)

Mr. Halpin: May it please the Court, we did not intend to call any other live witnesses. We do not mean to represent by this in any means that this is the only testimony that our case is relying on. Rather, we are relying upon the evidence that has been taken throughout the proceedings and a great deal of evidence in the depositions which refer to our point.

I would ask the Court to take judicial notice of certain statutes. I would like to ask the Court to take judicial notice of LSA RS—that is——

Judge Robinson: Not so fast.

Mr. Halpin: Okay. LSA RS, that is Louisiana Statutes Annotated, Revised Statutes, 33:1221.

[723] Judge Waddy: May I have that again?

Mr. Halpin: 33:1221. And informally, for the information of the Court, that statute reflects that until 1968 there was a general state policy of having single member districts; that is, prohibiting at large elections for parish school boards and police juries throughout the state, relative to the point of there being a general state policy against at-large elections.

The second statute that I would like to ask the Court to take judicial notice of is LSA RS 18:358(1969), which sets forth the majority requirement referred to in some of the testimony.

The third statute is LSA RS 18:351 (1969), which is the so-called anti-single shot voting law or sometimes known as the full slate voting law.

We would also ask the Court to take judicial notice of the proceedings in two federal cases. One, Orleans Parish School Board v. Bush reported at 242 F.2d. 156 (Fifth Circuit) and other proceedings in that case.

Judge Robinson: When you say "proceedings," do you have reference to the opinion?

Mr. Halpin: Yes, the opinion and any other subsequent opinions in that case. This is a school desegregation case with continuing jurisdiction, and the cite I gave you is the prncipal opinion, but to also note other opinions in that [724] case.

The third case is Louisiana v. United States, the Supreme Court opinion and lower court opinions in it. The Supreme Court opinion is reported at 380 US 145 (1965). This case indicates that until 1965 there was a statewide interpretation test for voting and sets out other findings relative to voter discrimination statewide.

We would ask that the Court take judicial notice of those statutes and cases.

Judge Robinson: I gather then that with this the intervenors rest?

Mr. Halpin: We will rest with this, Your Honor.

Judge Robinson: Very well, Mr. Halpin.

Mr. Stoner and Mr. Treese for the plaintiffs, do you propose to introduce any other evidence? This would, of course, include the opportunity which the Court mentioned this morning to respond to any evidence put in by the intervenors on the at-large issue.

Mr. Stoner: Yes, Your Honor, we do wish to offer rebuttal testimony.

Judge Robinson: Very well.

Mr. Stoner: We will be brief.

Judge Robinson: Are you prepared to go forward?

Mr. Stoner: We are prepared to go forward.

Judge Robinson: All right, you may call your first [725] rebuttal witness.

Mr. Treese: Mr. Lambert.

Judge Robinson: Just before you get underway, I recall at this point that on yesterday counsel for the intervenors called Mr. DiRosa and he took the stand, was asked a few questions and he was excused from the stand.

Mr. Halpin: If I may clarify, Your Honor. I forgot to mention it to the Court. I discussed with opposing counsel that in view of the depositions of Mr. DiRosa which covered the substance of the testimony that I would not use him as a live witness.

Judge Robinson: But the purpose of my raising the question, I want to make sure that he understands that he is released from further attendance at this trial, if that is the understanding of counsel.

Mr. Halpin: Yes, sir.

Judge Robinson: He has been?

Mr. Halpin: Yes, sir.

Judge Robinson: Very well, you may proceed.

Whereupon . . .

John Lambert

was called as a witness by and on behalf of the plaintiffs, and, having been first duly sworn, was examined and testified as follows:

[726] Direct Examination

By Mr. Treese:

Q. Mr. Lambert, would you state your full name, please, and present residence? A. I am John Lambert, Jr. I reside at 6126 Perlita Street in New Orleans. I think the address that may have been furnished in one of the exhibits would be Presburg Street which is about three blocks away. I simply moved three blocks.

Q. All right, Mr. Lambert, would you tell the Court what your occupation is. A. I am an attorney at law and I am also a member of the City Council of the City of New Orleans.

Q. Representing which district? A. I represent District D, which is the 7th and 8th Wards of the City of New Orleans.

Q. Mr. Lambert, with regard to the citywide race of Judge Morial, do you have any knowledge or information surrounding that citywide race? A. Well, Judge Morial qualified—Are you talking about the Court of Appeals race?

Q. That's right. A. Judge Morial qualified for the democratic primary election in the Court of Appeals. The then incumbent judge, Chief Judge Godfrey Reid, which was the Chief Judge of the Fifth Circuit—of the Court of Appeals, State of Louisiana, [727] Fourth Circuit, Judge Regan, for reasons of personal health problems, I think, involving his wife, decided not to run and took his retirement which left Judge Morial as the democratic nominee.

Qualifying against Judge Morial, however, in the general election was a democrat by the name of Oliver Delry who was traffic court judge of the City of New Orleans,

who had been in that position for any number of years. I would say ten years or so, who was a white man, and who also was a very good attorney too.

They had, as a result, a general election run-off between Judge Delry and Judge Morial, and Judge Morial won fairly handily.

Q. All right. Turning—— A. I might say Judge Morial was well respected too,——

Q. Very well. A. —in the community.

Q. Turning to another subject, are you a registered voter in the city of New Orleans? A. Yes, sir.

Q. Are you familiar with the registration process in the City, the current registration process in the City of New Orleans? A. Yes, I think I am fairly familiar.

Q. I wonder if you could describe for the Court the [728] machinery of the Registrar for the City of New Orleans. A. Yes, sir. I would like to preface this by saying, Your Honors, that my first advent to politics was in 1969 when I first ran for the House of Representatives and lost and then ran for the Council in the '69 election and then got elected.

Prior to my taking office, the Registrar of Voters by state law was appointed by the governor to the various parishes, and the prior registrar of voters or the registrar of voters at the time that I got elected to the Council was a gentleman by the name of Tim Gallinghouse. Mr. Gallinghouse, he had been appointed, I think, by Governor Davis, if I am not mistaken.

Also prior to my getting elected, prior to the Council taking office in May of '70, the new Council, the present Council, the State legislature had amended the statutes to provide that the local legislative bodies or the various parishes had the authority to appoint the Registrar of Voters. Up until that time the Registrar of Voters sort of —if he picked the right governor, he stayed in office.

There was a problem or a difference of opinion that had resulted on the Council between Mr. Gallinghouse and members of the Council on Mr. Gallinghouse engaging in

politics while he was a Registrar of Voters. That came to a head at about the time that we took office when we said that under [729] this new act we had the authority to appoint a Registrar of Voters and we were going to appoint someone other than him. He sort of solved the problem by resigning the position. So, we didn't have to come to whether or not we had the authority versus whether or not he had the authority to stay in.

At about that time we were being pressured, not unethically so but by recommendations from various groups of blacks and whites, political and non-political, civic and otherwise, to make an appointment as to their nominee or their recommendee, and we were really all divided on who to appoint, the members of the City Council.

At one knockout session the name was mention of Mr. Antonio Papale who was then the Dean Emeritus of the School of Law, Loyola University. His name was not any one of the names that had been submitted by any of the other groups, and it appeared to be a good appointment from the aspect that Loyola University, particularly Dean Papale of the Law School—he was Dean at the time I was there; he had taught me and many members of the bar—had a very fair appreciation of the problems that—the social and economic problems that we had between the various interests of the City of New Orleans, black and white and racially and otherwise.

As a matter of fact, he integrated Loyola Law School at the time I was in it, and he worked very closely with Father Toomey of Loyola University in industrial relations in [730] this particular area.

So, he was asked to come and visit us, and after talking with him, finding out his views, we decided that maybe Dean Papale might be a good selection.

I might say that prior to this time, however, the Registrar of Voters had, through some legislative authority, created two permanent substations for voter registration in the City of New Orleans, one out along what is known as the Chef Menteur Highway, which is Highway 90 com-

ing in the City of New Orleans. It's out in Gentille East or in the 9th Ward. And one over in Algiers to serve the people over there so they wouldn't have to come down to New Orleans.

We, in discussing with Dean Papale at a subsequent time after he took office—it might have been his idea, it might have been a mutual idea of his and members of our staff and ourselves in talking with him. We were trying to get some sort of a concept of mobile registration, voter registration started. Not mobile in the sense of a van but mobile in the sense that we could send somebody with the necessary paraphernalia down to a particular area and let them stay there for several weeks or months if it was necessary.

He got the cooperation of the City of New Orleans. I received the cooperation of the City Council. As a matter of fact, I think we budgeted some additional monies for him to do that. We were, I think by state law, required to provide [731] a certain percentage of the budget of the Registrar of Voters and a percentage comes from state funds.

So, we were interested in this program. As a matter of fact, he came out to my area in the 7th Ward for several months at a fire station which was in the vicinity of the housing projects so that the people could walk merely two or three blocks to register.

The registration was no problem. There was not this question any longer of turning down people simply for failure of identification of where you lived. Under the act of the state legislature—although they eliminated the educational requirement because at one time years ago, and I am talking about the 1950's and thereabouts, they used to turn people down admittedly if they could recite certain parts of the Constitution, which is a factor that none of the City Council is proud of. We are not proud of that particular activity.

In any event, it was an attempt in the present administration, particularly after 1971 when we took office, to

get the voter registrar into the neighborhood and have him help people register, in an effort, if they didn't have identification, to try and work out some method by which they could show where they lived. You have to register people for a certain ward or a certain precinct. You couldn't get all your relatives and run into Mr. Ciaccio's district, for example, and regster them all there just in order to get voting strength [732] over there.

The idea was to make sure that they registered where they lived. And he did this. He extended himself so that we had the Voter Registrar's deputies in the particular areas and they would advertise where they are going to be and circulars would be put out in the neighborhoods, in the churches, things like that.

So, Dean Papale, I think, tried to take these steps to facilitate the registration.

Q. Can you think of any other inhibitions or encumbrances that now exist in the registration process which might in any way restrict the right of a citizen of New Orleans to register? A. No, sir, I haven't. I will be perfectly honest, since we have taken over I haven't had any complaints of people coming to me, and I am close to the members of the black community and the white community in my area, and I haven't had any complaints of people being denied the right to register.

Q. Mr. Lambert, turning now to my final subject, during the luncheon break I asked you if you could prepare a list of city officials for the city, employed by the City of New Orleans, as representative of blacks serving in high capacity positions within the City. I wonder if you could just read to the Court the names and the positions. A. Yes, sir. If Your Honors please, one of the major [733] efforts, I might say, that I have to compliment the Mayor of the City of New Orleans on, his administration since 1970 and in his effort as a councilman prior to that, was to involve blacks in the mainstream of city government. To that extent he had appointed Mr. Terrence Deverney, who has the title of Assistant Chief Administrative Officer, but he has the responsibility of coordinating all the federal programs

in the City, and he has a staff, and it is a very big responsibility because of the extent of federal funds that are now available to the cities, particularly in revenue sharing. Prior to that there were model cities monies and urban renewal monies.

I might say that the position he holds is probably the highest paid civil service position in the city hall pay plan.

Mr. Robert Tucker, who is also a candidate for councilman at large and has the endorsed support of the mayor whenever Your Honors decide we can run. He is the Executive Assistant to the Mayor. He is one of two executive assistants.

Mr. Henry Simons, who comes to us very qualified, is the Director of the Department of Finance. He has a very terrific responsibility for the revenue department in the revenue collection of the city.

Mr. Andrew Sanchez serves as the Director of Property Management for the City of New Orleans.

[734] Mr. Sidney Bartholemy is the Director of the Department of Welfare of the City of New Orleans.

Mr. Cecil Carter is the Director of the Human Relations Department of the City of New Orleans.

Mr. Clyde McHenry is the Director of the Housing Authority of the City of New Orleans. Now, I might say here, the Housing Authority is a state agency or corporate body. It is a public corporation in that it is not owned by any private interest. Its purpose is to provide public housing for the city. It was created many, many years back. The mayor has the authority of appointment of the different members or the directors of the Housing Authority, the different board members, and they in turn select the director. The mayor's nominee for the position was Clyde McHenry and they selected Clyde McHenry as their director. It is not an agency of the city government as such. It is a separate entity. But the mayor has that authority of appointment to the members.

Mr. Gerald Douglas is the Director of Community or Area Manpower Planning for the City of New Orleans.

Mr. Arthur Simmons is a director of Youth Opportunity Programs for the City of New Orleans.

Helen Stanwood is the Deputy Director of the Department of Health. The Director of the Department of Health is a woman physician, a white lady by the name of Dr. Tompson. I think a physician has to be named as the Director, and [735] Mrs. Stanwood is the Deputy.

We have already mentioned Louis Turner who is Assistant Chief of Police. We have the Chief of Police who is Clarence Geruso, white. Mr. Louis Turner is in second position, Deputy Chief of Police, and then there is a third position which is the Second Deputy. Chief Duke is the third. Before Louis Turner was Sidney Case who was also a very well qualified black police officer.

Mr. Emmet Molten is the Director—Deputy Director of NORD for the City of New Orleans.

Then there is King Wells. Mr. King Wells is the Deputy Director for the Community Improvement Association of the City of New Orleans.

In addition to that, they have Mike Stalks who is on the City Attorney's Staff, an attorney that I know about.

And I am sure there are other positions, other people in supervisory positions.

Q. You developed this list from memory; is that correct? A. Well, yes, you know, talking with Councilman Ciaccio, I said, "Let me see who these people are." I know all these people very personally except—I know Mrs. Stanwood, having met her, and Mr. Wells.

Mr. Treese: I have no further questions.

Judge Robinson: Cross-examination, Mr. Shurtliff?

Mr. Shurtliff: Yes, Your Honor.

[736] Cross-Examination

By Mr. Shurtliff:

Q. Councilman Lambert, you were discussing the election contest of Judge Morial. Was Judge Morial the democratic nominee? A. Yes, sir.

Q. And then Judge Delry qualified? A. Yes, he was a democrat but he qualified as an independent.

Q. I see. Is that a normal event in Orleans Parish politics, to have persons qualified as independents? A. Well, that is the first time that it's been done in recent years that I can recall. I can't recall any other election.

Q. Do you know of any independent candidates that have ever qualified in one election? A. No, not in recent years. I don't recall. Do you have any in mind? Maybe——

Q. You discussed the registration activities of the parish, the City Registrar of Voters. Since you have taken office, do you know, Councilman Lambert, whether blacks are at the present time registered in Orleans Parish in numbers proportionate to their voting age population as are whites? A. I don't have any independent knowledge of that, no. I do know this, that I read a study recently where a black [737] community was a more youthful community than the white community in the City of New Orleans having more children. If there is any disparity in the percentages, you know, I would venture a guess to say that probably the whites have more registered than blacks, if you wanted my estimate. But I would also say that the reason for that would be, also in my opinion, the youth factor. You know, there are more children in the black community than white.

Q. Would there be any other factors that you are aware of that if that is the case would—— A. Not today. I don't think that as of the last four or five, six years, I don't think that the problem in voter registration is a factor, no.

Q. Was there a problem before the last four or five, six years? A. Well, as I mentioned to the Court, the problem was several years back, which we aren't proud of, maybe around the 1950s and thereabouts, you know, to the 60's. It started easing up some, and then in '65 the Voters Rights Act came into play then. But since this administration taking office in 1970 we have not had that problem.

Q. Councilman Lambert, you indicated the number of persons who are black that hold supervisory positions in the—— A. I said responsible supervisory.

Q. Responsible supervisory positions in the city govern- [738] ment. A. Yes.

Q. And you listed a number of directors of various agencies. A. Yes, sir.

Q. Or departments and some deputy directors of departments or agencies. A. Yes, sir.

Q. And I take it that there are on your list about thirteen persons so listed? A. There were about thirteen persons name; yes, sir.

Q. Do you know, Councilman Lambert, how many positions there are in city government that are equally as responsible in your judgment as are those positions that you have just listed? A. Well, let me see if I can. It's tough to answer that question, Mr. Shurtliff. There must be some ten major departments in the city, and if I had the charter we could go through them. Of those ten major departments, I might say this, Your Honors, that the mayor has the power to appoint under the city charter the department directors, the deputy directors and some departments have a secretary. So, by and large, except for maybe one department, two departmtnts, he has the authority to appoint three jobs.

Now, those are appointed jobs. They are not civil [739] service jobs. All the rest of the positions in city government except those on the mayor's staff are civil service jobs. So that of the ten, twelve, ten major departments, let's say, three of them are being held by—three or four of them are being held by blacks. Some of these are not major departments, like Youth Opportunity Program is not a major department of this city. And then you have three that are being held by the deputy, the deputy slots are being filled by blacks.

So, say of the ten or say twelve major departments of the city, you have directors who are blacks, and you have three deputy directors in three other departments who are black.

Q. Do you know, Councilman Lambert, how many assistant city attorneys there are in the City of New Orleans?

A. I don't know. The city attorney's office always comes in for a little bit more money for those attorneys. You know how they are. I would say he might have a staff of about eight or ten attorneys.

Q. Would that include the city attorney staffing of the criminal courts? A. No sir. The criminal courts are not staffed by the city attorney. The District Attorney of the Parish of Orleans employs assistants to staff the criminal courts.

Q. There are no city criminal courts? A. Well, we have traffic and municipal courts. But the figure I gave you of about ten to twelve would include those [740] who go down and represent the city in traffic courts or maybe municipal courts; yes. They have other blacks employed by the city who have left, you know, because the salary isn't that lucrative to want to stay a long time.

Mr. Shurtliff: Thank you. I have no further questions.

Judge Robinson: Do you have any cross-examination, Mr. Halpin?

Mr. Halpin: No.

Judge Robinson: Mr. Cotton?

Mr. Cotton: No.

Judge Robinson: Any redirect examination?

Mr. Treese: The Court's indulgence a moment?

Judge Robinson: Certainly.

(Whereupon, plaintiff counsel confer.)

Mr. Stoner: May it please the Court, we have no further questions of Councilman Lambert.

Judge Robinson: I take it that Mr. Lambert may be excused.

You are excused, sir, although you are welcome to remain in the courtroom.

(Witness excused.)

Mr. Stoner: May it please the Court, that will be the plaintiffs' rebuttal testimony.

With respect to the matters that were raised yesterday [741] referring to the councilman at large, we would like to call one or two matters to the Court's attention.

Judge Robinson: Very well.

Mr. Stoner: That is this: Under the charter of the City of New Orleans, the councilmen at large, unlike the district councilmen, are charged with certain other responsibilities. They are members of, for instance, the Sewer and Water Board of the City, that is, one of the councilmen at large is; the Board of Liquidation, the Dome Stadium Commission, by example.

So, the Court should know that by the charter the two councilmen at large do have additional responsibilities over and above their responsibilities as councilmen on this seven-man council.

Mr. Halpin: Your Honor——

Judge Robinson: Just a moment. Can this hold until Mr. Stoner gets through with his presentation?

Mr. Halpin: Yes, sir. I thought he was winding up.

Judge Robinson: Mr. Stoner, may I make a suggestion? Portions of the charter were appended to the complaint in this case.

Mr. Stoner: That's right.

Judge Robinson: I take it that the charter—well, I don't know. I have seen some rather large city charters. Is it a massive document?

[742] Mr. Stoner: I don't think it is, Your Honor.

Judge Robinson: Would it be possible—it doesn't have to be done today—simply to file a copy of the charter, and you might advise the Court as to the portion or portions that you would want us to examine on the point that you have just mentioned.

Mr. Stoner: That will be helpful, Your Honor. May we have leave to file with——

Judge Robinson: Yes.

Mr. Halpin: We have no objection to it. We would like to do that.

Mr. Shurtliff: We have no objection.

Judge Robinson: We will be calling on you for some filings and you will have ample opportunity to do so.

Judge Waddy: Let me ask you this question, Mr. Stoner. Does the charter indicate whether the five councilmanic members who are elected from the districts have any authority in changing the at-large method of selecting; in redistricting or selecting, do these five members have anything to do with changing the setup as to the number of——

Mr. Stoner: They don't, Your Honor.

Judge Waddy: Suppose that the proposal to change it to eleven had passed. Would there still have been two members at large?

Mr. Stoner: Yes, Your Honor. Under that proposal, [743] which incidentally was adopted by the City Council, the ordinance did call for two of the eleven to be elected at large and nine to be elected from councilmanic districts.

Judge Waddy: Well, now, those two that were to be elected at-large, were they left to be elected at-large because the Council couldn't change that?

Mr. Stoner: No, Your Honor. I assume that any ordinance that was adopted by the Council and passed by the voters would be the charter of the city—would be an amendment to the charter of the City of New Orleans.

Judge Waddy: Then as I understand it, in any redistricting procedure, this council has a right to do away with the positions of councilman at large.

Mr. Stoner: No, no, no, sir. In a redistricting procedure, no, sir, they do not. The only thing, they had authority to adopt a proposed charter change and to submit it to the electroate. They did that on two occasions. One was the occasion of the eleven-man council and the other was the occasion of the nine-man council.

Now, the City Council as presently constituted adopted that as a proposed ordinance, as an ordinance, and if approved by the people at a general election would have had the effect of amending the city charter of the City of New Orleans. In both cases the electorate defeated the proposed amendment to the charter.

[744] So, the present council has the responsibility under the charter of redistricting itself according to a charter provision that provides for two councilmen at large and five councilmen from councilmanic districts.

Judge Waddy: So that in the absence of an amendment to the charter, the council has no right to change the positions for councilman at large; is that what you are saying?

Mr. Stoner: You are absolutely right, sir.

Judge Robinson: I have one other question related to that. Could the council have adopted a proposed ordinance that would have eliminated the councilmen at large? For example, which would have provided for the same nine or the same eleven members of the council but all would be elected from districts. I realize, of course, that means that you have got to make up some other election districts, and then after having acted as the council in that respect, submitted the proposition to the voters of New Orleans as a matter of referendum, and if the voters of New Orleans had approved it at the referendum, would it have automatically changed the charter?

In other words, what I am trying to find out is: does the charter admit of a change by the machinery that you have mentioned, the adoption by the council of a referendum that would have eliminated at-large councilmen?

I don't know whether you can answer that question or [745] not, but if you can it will be helpful.

Mr. Stoner: I believe that I can answer and I believe the answer to that would be yes, it could. However, it would have to also change all other provisions of the city charter which give to the councilman at large other responsibilities over and above those of the district council.

Judge Robinson: I can appreciate that. The point that it was within——

Mr. Stoner: May I just confer with the Assistant City Counsel?

Judge Robinson: Certainly.

(Whereupon, plaintiff counsel confer.)

Mr. Stoner: I am informed, Your Honor, that the responsibilities which the councilmen at large have over and above the responsibilities that they have as a member of the council, such as the membership on the Sewer and Water Board, the Board of Liquidation, the Dome Stadium Commission and so forth, are set by a state law, and not by city charter. So that my previous answer would have to be amended and I would say no, the city council would not have authority to change that without a change in state law.

Judge Robinson: Very well. Did you have some further presentation you wished to make at this time?

Mr. Stoner: I have one other matter that I wanted to call to the Court's attention and that is in the petition [746] for intervention which was filed by the intervenors. There was attached a copy of the complaint of the intervenors in Civil Action 73-1862D, which is an action in the United States District Court for the Eastern District of Louisiana.

I would like to call to the Court's attention that on August 1st, prior to the prior hearing in this case, there was submitted a proposed order in that case by counsel for the intervenors which did not refer to the change of the two councilmen at large but merely asked that court to appoint a special master for the redistricting of the five councilmanic districts.

I would submit to the Court that counsel for the intervenors is now coming before this court and asking this court to hold that the two councilmen at large should be changed, which is entirely inconsistent with the position which counsel for the intervenors has previously taken in the Louisiana case.

Judge Robinson: Very well, Mr. Stoner.

Mr. Stoner: Thank you.

Judge Robinson: Now, does that mean that at this point you rest the case for the plaintiffs?

Mr. Stoner: We do.

Mr. Halpin: Your Honor, I would like—

Judge Robinson: Would you come to the lectern.

Mr. Halpin: Yes, sir. I would like to call some- [747] thing to the attention of the Court too relative to what Mr. Stoner has just said as to the pleading in New Orleans.

Mr. Stoner was not present at the conference held there, but Mr. Salatich was, and indeed what he says is true, that pleading was filed. But there was a great deal of discussion in conference as to that not binding us in any shape, form or fashion, and we did consider specifically the question of at-large at that time. There was some question that that court might go forward before this court proceeded and device a districting plan, and under no circumstances were we in that way failing to inform the counsel of our position against the two at-large seats nor were we taking a position which should be termed as inconsistent with any position here.

Judge Robinson: The complaint filed in the Eastern District of Louisiana litigation does not mention in any shape or form any issue with reference to at-large elections or at-large councilmen.

Mr. Halpin: That is correct.

Judge Robinson: I took pains to recheck it again after yesterday.

Mr. Halpin: Yes, that's true.

Judge Robinson: Now, is there anything else in that litigation that developed any issue of that character?

Mr. Halpin: No, sir, there was not. Mr. Stoner has referred to another pleading by which we submitted a [748] proposed guideilne for the master.

Judge Robinson: And we are advised by the pleadings that that court did appoint a master.

Mr. Halpin: Yes, sir.

Judge Robinson: We do not have a copy of the order of appointment so I can only assume what—Were instructions given in the order appointing the master as to what the master was to do?

Mr. Halpin: I will have to check my file. Just a second. I have it with me. My recollection is, though, that the spe-

cial master was appointed and the court had called for guidelines and then did issue a brief order appointing the special master. But, as I recall, they were not detailed guidelines. But I will check that in just a moment.

Judge Robinson: Well, you can just let me know in the event—Mr. Stoner, would you—Do you want to speak to Mr. Halpin?

Mr. Stoner: Yes, I just wanted to raise the question as to whether or not the entire special master procedure was not suspended,——

Judge Robinson: Well, I was going to get to that.

Mr. Stoner: —pending the outcome of this suit.

Judge Robinson: We were advised that it was, but this was advice given to us, as I recall, in August. I just want to make certain that the situation remains the same.

[749] Mr. Halpin: The status of that case is that everything there is being held in abeyance pending the disposition of this Court.

Judge Robinson: Very well. I don't think the matter that I inquired about previously is terribly important, but you can just let me know in the event your response, which you——

Mr. Halpin: All right.

Judge Robinson: —stated you were giving from recollection is materially accurate.

Judge Waddy: Mr. Halpin, do you consider that it is a responsibility of this Court to devise a redistricting plan in this case?

Mr. Halpin: Your Honor, I think it is within the power of this Court. The Court in Petersburg essentially gave affirmative relief in terms of saying to the City of Petersburg——

Judge Robinson: It does not specify to set any district lines.

Mr. Halpin: No, but it did suggest that, well, if you recreate single member districts, annexation would be all right. What I am suggesting to this Court is that it would be appropriate for this Court perhaps to suggest in terms

of relief or guidelines, but it would not be appropriate for this Court to actually devise a redistricting plan.

[750] Judge Waddy: You said something that gave me the impression that you were expecting this Court to prepare a plan, and I wanted to clear that up.

Mr. Halpin: No, sir, under no circumstances.

Judge Waddy: I asked Mr. Stoner, who represents the plaintiff here, whether or not that was contemplated in their law suit.

Mr. Halpin: No, Your Honor, I think not.

Judge Robinson: I haven't looked at the order in Petersburg on this aspect of it, but the opinion makes it plain that all that that court did in the Petersburg case was to say, that is, to say to the city, you may go forward with your annexation provided you conduct your councilmanic elections from here on on a ward rather than on an at-large basis.

Mr. Halpin: Yes, sir.

Judge Robinson: Which in the view of the court in that litigation would have eliminated any possibility of diluting the vote of any citizens of the city.

Mr. Halpin: All right. Along the same lines, I am suggesting that—I'm sorry.

Judge Robinson: Do you think that the litigation before the court is going to give this Court an opportunity to make a disposition assuming that we should reach that point by way of decision, a disposition that would be that simple and clear cut?

[751] Mr. Halpin: Well, this is a more complex case, but I would suggest that the remedial area of the Court does lie in that fashion. I think what we are asking this Court to say is that, you know, should the City Council of New Orleans be elected from single member districts which are not gerrymandered in any shape, fashion or form, and such would appear to be in compliance with Section 5. That, I think, would be parallel to what the court——

Judge Robinson: Doesn't that Section 5 limit the authority of this Court in this case and the disposition to be made simply to a declaratory judgment?

Mr. Halpin: Yes, sir, I think it does. Nevertheless, I think that, of course, we have the problem, for instance, with the Justice Department. When they do object to a plan or approve a plan, frequently the reasons are not detailed—are not stated in great detail, and the Council has been heard to observed repeatedly, "Well, they didn't know what they were supposed to do."

I think it would be appropriate for this Court to give, nevertheless, some explanation or guidelines or so on if they do find that the City Council has not met its burden, so that in the future they might know better what to do.

Judge Robinson: Well, I wasn't trying to pressure you. Like Judge Waddy, I just wanted to clarify your expectation. We will be calling on you for briefs. I will get to [752] that in a few minutes.

Now, Mr. Halpin, when Mr. Stoner had the lectern, you arose. Have you covered the matter that you intended to bring up?

Mr. Halpin: Yes, sir. This was the matter that I wanted to clarify.

Judge Robinson: This is a bit out of order but this is out of the normal progression of inquiring of counsel, but I take it that the intervenors submit their case in toto at this point; do they?

Mr. Halpin: Yes, Your Honor.

Judge Robinson: Very well.

Mr. Stoner, would you return to the lectern. Just Corcoran has a question for you.

Judge Corcoran: I don't know whether you can answer it or not, Mr. Stoner, but I am sure the city attorney can.

In connection with these at-large seats, these two at-large seats, has there been any change in the boundaries of the city since the 1960 census? Has there been any annexation?

Mr. Stoner: To my knowledge there has been none since the home rule charter was adopted in 1954. But may I check that with Mr. Salatich?

I am informed, Your Honor, that there have been no changes in the city boundaries of the City of New Orleans [753] since 1912, and the present home rule charter which is before the Court was adopted in 1954. So, the question of annexation as in Petersburg—as being involved in the Petersburg case is not involved in this case at all.

Judge Robinson: Mr. Stoner, we just want to make sure, did the plaintiffs put in all the exhibits that they intend to put in evidence in this case?

Judge Corcoran: You haven't designated the depositions.

Mr. Stoner: The only matter pending, Your Honor, would be the depositions which have been taken at our direction. I though by stipulation we had previously agreed that all depositions——

Judge Robinson: That's correct.

Mr. Stoner: —would be admitted into evidence for the purpose expressed in the depositions.

Judge Robinson: But your last reference was to what? I didn't quite follow you.

Mr. Stoner: Well, I believe the government has formally offered the depositions which they had taken and assigned to them an exhibit number. We have not done that to our deposition. We would be happy to do so if the Court would like those depositions to be designated by an exhibit number.

Judge Robinson: No, I don't know that that would be necessary. I just want to be clear on this. What the [754] plaintiffs desire would be all depositions of all deposed witness es in evidence for consideration by the Court?

Mr. Stoner: That's right, Your Honor. It was my understanding that was the stipulation between the parties.

Judge Robinson: It was my understanding that we so decided on yesterday, gentlemen.

Judge Waddy: I believe all of the maps and other documents were admitted into evidence the first day. I have a list of some fifteen exhibits.

Mr. Stoner: Yes, that's right.

The Deputy Clerk: All except No. 16.

Judge Waddy: No. 15 was not?

The Deputy Clerk: It is the only one that is not admitted, Your Honor.

Judge Robinson: What is No. 16?

The Deputy Clerk: It's an opinion with a letter attached.

Judge Waddy: It was a letter. No. 16 was a letter containing an opinion. Was that it?

The Deputy Clerk: I guess that's what it was, Your Honor.

Mr. Stoner: I am sorry if I overlooked it. The exhibit number is marked as though it is in evidence.

The Deputy Clerk: I guess it is.

Judge Robinson: Yes, I notice.

[755] Judge Waddy: I had noted that all 16 were in.

The Deputy Clerk: Right, yes.

Judge Robinson: Very well. That square you away; does it?

Mr. Stoner: It does, Your Honor.

Judge Robinson: Mr. Shurtliff.

Mr. Shurtliff: May it please the Court.

Judge Robinson: Now, we have one final matter for you and that is Exhibit No. 31, that we will have to make a determination on. But before getting to it, do you have anything else?

Mr. Shurtliff: On the depositions, Your Honor, if I may.

Judge Robinson: Yes. Move to the lectern, will you please.

Mr. Shurtliff: The depositions that we offered earlier on today were depositions taken earlier in this case before the trial was taken in August. There are now eight depositions that have not been offered, that our understanding is would be jointly offered, and we have asked the Clerk to mark those eight depositions as joint exhibits, and pursuant to the stipulation had agreed to any they are marked Joint Exhibits 1 through 8.

The Deputy Clerk: I just put No. 1.

Mr. Shurtliff: I see. That is my understanding.

[756] We did not previously offer the depositions taken at our request.

Judge Robinson: You are speaking now of the matters stipulated which you advised us of earlier today?

Mr. Shurtliff: Right.

Judge Robinson: Very well. Now, just before getting to Exhibit 31, may I inquire of all counsel, does the Court now have on file in the court all of these depositions?

Mr. Stoner: Your Honor, I was informed by the Clerk yesterday that the originals of all the depositions have been received in the Clerk's Office.

Judge Robinson: Yes, I understand. We will take care of that. I just wanted to make certain.

Judge Waddy: We were short of one yesterday, Madam Clerk.

The Deputy Clerk: They are all on as far as the docket sheet is concerned.

Judge Waddy: You did find that one that you couldn't locate?

The Deputy Clerk: Yes, sir. There are eight of them in all.

Judge Robinson: To put all counsel at ease, a check has been made. Everything that has been filed is available to the Court.

All right, Mr. Shurtliff, do we arrive at Exhibit 31 [757] again at this point or do you have something else?

Mr. Shurtliff: I believe that we do. Your Honor.

Judge Robinson: All right. Let me inquire of Mr. Treese and Mr. Stoner. Gentlemen, have you had an opportunity to look at that?

Mr. Treese: Yes, Your Honor.

Judge Robinson: At that publication?

Mr. Treese: Yes, although not in great depth. But the first thing that catches our eye is that it was published in

March of 1961. Apparently it was proposed by a Louis E. Neuman with assistance provided by Bruce J. Borrello. I have been unable to locate anyone who has any knowledge of those gentlemen. Because of the date of the publication, we would hold it completely—we would urge this Court to consider it completely irrelevant.

Mr. Treese: March of 1961.

Judge Robinson: You say 1961?

Judge Robinson: I understood earlier today that this is a historical treatment of some sort.

Mr. Treese: It is in substantial part, Your Honor, without question. But it comes to conclusions and states opinions and it is——

Judge Robinson: We are not being requested to give any consideration at all to matters of conclusion or opinion.

Mr. Treese: Frankly, Your Honor, we just have not [758] had the time to totally review it. It is a 70-page document based on facts prior to 1961. There is substantial statistical——

Judge Robinson: We will give you that opportunity. You certainly are entitled to that.

Mr. Treese: We stand on our position, Your Honor. We will continue to objection even after we study it.

Judge Robinson: Well, we will reserve our decision on both. You are objecting to admissibility and not weight?

Mr. Treese: Certainly.

Judge Robinson: But, gentlemen, it is awfully difficult for us to make a ruling without having seen the document. So, we have other things to be decided in this case. I think you can rest with assurance that we will decide this along with everything else before the case is finally completed.

Mr. Halpin: If it may please the Court, our position with respect to this document is that we would just like to have it available to the Court as a published document which is not generally available and, if allowed in the record as a proffer, will be at least in the Court's library.

Judge Robinson: Mr. Treese?

Mr. Treese: Yes, agreeable.

Judge Robinson: In pondering this case, if I felt a need to know more about the history of voting in the City of New Orleans, why couldn't I go to a library and, assuming that [759] such an historical work is available, why couldn't I examine it?

Mr. Treese: I can rely on Mr. Halpin's previous remark that it is not generally available and he wants it in the court file. This organization is not a quasi-public organization that it was represented to be earlier. It is a private organization.

Judge Waddy: Suppose any author prepared a book and we wanted to look at it from an historical standpoint. Wouldn't we have a right to do so?

Mr. Treese: I am sure you would, Your Honor.

Judge Robinson: And we are accustomd to, I think, making pretty valid judgments as to how much weight should be given to something, and counsel for the government has made it plain that matters of opinion, conclusion, interpretation and that sort of thing are not the object of this proffer. It is being tendered simply for the factual information that it contains.

Mr. Treese: May I make this request in light of what the Court has just stated? May we contact the publishers and the authors of this document to ascertain whether a more current or an updated version of this is available, and may we also have the opportunity of perhaps deposing the authors as to some of the facts that they have uncovered in here? I am not saying we are going to do this, but if the Court would [760] grant us a fixed number of days within which to accomplish this task, we would appreciate it.

Judge Robinson: We will do that. I think that under the circumstances, since you have not had the opportunity of thoroughly examining 70 pages, if you run across some other histories of the City of New Orleans and you wanted to lodge them with the Court for its edification, that the Court would not object. Personally, I want all the light that I can get on the subject before this case is decided.

How much time do you want for that purpose, Mr. Treese?

Mr. Treese: May we have ten days?

Judge Robinson: Oh, certainly.

Mr. Treese: Thank you.

Judge Robinson: Would you advise us as to how you come out on that? I mean by that so that we will know whether we need to hold matters any longer on that account.

Mr. Treese: Yes, sir.

Judge Robinson: All right, gentlemen, so much for Exhibit 31.

Now, I take it that you gentlemen want to submit argument to the Court. The Court is expecting it anyway.

Mr. Stoner: Yes. My only hesitation, Your Honor, was that you had previously mentioned that the Court would be asking for briefs.

[761] Judge Robinson: Yes.

Mr. Stoner: I was wondering if maybe oral argument might not be more valuable after the submission rather than prior to.

Judge Robinson: Absolutely. Our view on the matter is that a case of this magnitude and importance ought to be thoroughly and carefully briefed. We shall give you on opportunity to file your briefs. If any of you gentlemen want to orally argue the case, personally I would welcome it. We would set a date and have you come back and present your arguments at that time which certainly, I think, would be much more meaningful to everybody concerned.

It might be helpful if we took a brief recess to permit you gentlemen to confer amongst yourselves as to how much time you might want and maybe to work out a little informal briefing schedule of your own. You must bear in mind that before you can do the job capably, you are going to have to wait on the transcripts, and at the moment I don't know exactly how much time they are going to take.

I think you can get it done a lot better and a lot faster than simply by moving from counsel to counsel.

Do you want to file simultaneous briefs or do you want the briefs filed in series? For example, briefs for the plaintiffs first, then for the government, then perhaps for the intervenors, with provision for replies and that type of [762-766] thing?

I would think, gentlemen, that ten minutes ought to be sufficient to enable you to do that.

In the meanwhile, while that is going on, the Court itself will investigate to the extent to which it is able to try to find out how soon transcripts can be made available to counsel and to the Court.

Mr. Marshal, at this point the Court will stand in recess for ten minutes.

(Whereupon, at 2:58 o'clock p.m., a short recess was taken.)

[767] AFTER RECESS

Judge Robinson: It is our understanding that counsel have already been advised that the transcripts of the entire trial including today's proceedings will be available on Tuesday.

Gentlemen, have you managed to work something out? Are you the spokesman, Mr. Stoner?

Mr. Stoner: May it please the Court, we have conferred. I don't know that we are in agreement. We will submit our proposal to the Court.

Our proposal was that all parties file simultaneous briefs within thirty days, and that thereafter each party be given fifteen days to answer the original brief, and to file a reply to the brief of the other parties.

Judge Robinson: All right, sir. Mr. Shurtliff.

Mr. Shurtliff: May it please the Court, it was the Government's judgment that the best way to proceed would be for the plaintiffs as the party with the burden to file a brief, a somewhat lesser time for the Government to respond and file its brief in chief, and some time thereafter for plaintiffs to respond to the Government's brief.

Judge Robinson: That method, of course does have an advantage. In terms of this case, however, it has a disadvantage. I suppose the suggestion made on behalf of the plaintiffs was calculated to save as much time as possible. [768] Is that correct, gentlemen?

Attorneys: Yes.

Judge Robinson: And usually simultaneous briefs are calculated in that direction, and sometimes they do, and sometimes they don't.

All right. Do you have a view on this, Mr. Halpin?

Mr. Halpin: Yes, Your Honor. We, of course, are also of the position that things should be expedited. The elections in New Orleans have been enjoined, and the present councilmen remain in office until.

However, we feel that a series of briefs would be more appropriate and that it would not take more time.

The schedule suggested by Mr. Stoner is thirty, and fifteen, which would be forty-five. I see no reason why we couldn't have the plaintiffs file their brief within say twenty-five days.

We could respond within ten, and the plaintiffs could reply with another five, which would still have us at the forty-five day period, which I think would expedite matters.

I think it would be more appropriate to understand since the plaintiffs do have the burden of proof exactly what they alleged have proved in this case.

Judge Robinson: If, Mr. Halpin——

Mr. Halpin: Yes, sir.

Judge Robinson: —we adopted the suggestion made [769] by the Government, and by you, and gave the plaintiffs the full thirty days, since they carry the burden of proof to make their initial filing, it is my understanding that you could have your brief in within ten days from the time the plaintiff files?

Mr. Halpin: Yes, Your Honor, we could.

Judge Robinson: All right. How much time would it take the Government if we move to a series type filing instead of a simultaneous filing, Mr. Shurtliff?

Mr. Shurtliff: We could respond within ten. I would suggest that from my point of view that twenty-five days for plaintiffs and fifteen for the response, and ten for the reply, would bring us to fifty.

Judge Robinson: Twenty-five, fifteen and ten.

Mr. Shurtliff: To fifty days.

Judge Robinson: Where does that leave you, Mr. Stoner? We are talking about a difference of five days.

Mr. Stoner: Your Honor, my original thinking in asking for simultaneous briefs is that this is a brief that is being filed immediately following the trial.

Now all of the parties have heard the testimony. They know the testimony. It is all available to everyone, and it would seem to us that the filing of simultaneous briefs puts everybody to work on this case and keeps them working right now, and in our opinion the Government and the intervenors have an adequate opportunity to comment, and discuss, and [770] present to the Court their arguments with respect to the evidence that has been submitted here to this trial, and we really believe that there is more probative value in the briefs by calling for simultaneous briefs.

Judge Robinson: Well, as I indicated earlier——

Mr. Stoner: The tendency seriatim is for the other party merely to sit back and throw darts, if I may say, in the plaintiffs' brief, and as opposed to taking the broad view of all the testimony in evidence that has been adduced at the trial.

Judge Robinson: In the Court of Appeals we have the filings both ways. The usual method is to have them filed in series. However, when we run into a situation in which we really want to expedite consideration and decision, we frequently go to simultaneous briefs, so there are advantages and there are disadvantages.

In terms of total time, I can only see two consequences, two differences rather, between the procedure you advocate and that suggested by the Government and by the intervenors.

Your initial filing period will be twenty-five days rather than thirty, and the overall filing period would be fifty days instead of forty-five.

Well, gentlemen, let me confer with my colleagues and see what their wishes are in that regard.

[771] (Judge Robinson conferring with Judges Waddy and Corcoran.)

Judge Robinson: Gentlemen, the Court has conferred. I might say to you that I don't think in any event the differences are very great. We have come up with a timetable, Mr. Stoner, that is within ten days of yours, and at the same time preserves the benefits that counsel for the Government and the intervenors are trying to preserve, and also would accord the unanimous preference of the Court to have these briefs filed in series.

This case certainly deserves all the expedition the Court can give it. There is no doubt about it, and the way the Court has proceeded in this case, I think it would demonstrate to all concerned that the Court has spent every possible effort to expedite this case as much as possible.

At the same time, this Court, as all other Courts, is concerned about the quality of its product and there is one other circumstance in this case that may not obtain in the ordinary run of litigation, and that is, of course, the magnitude of the burden that plaintiffs carry in this case.

It is, of course, a little difficult to write a brief for the defendant when the defendant is not quite as certain as to just how the plaintiffs in the case would undertake to discharge that burden.

[772] We have decided, gentlemen, that the allotments will be of this fashion:

The plaintiffs will be permitted the thirty days, the full thirty days, from the availability of the transcript within which to file the brief on behalf of the plaintiffs, that is the opening brief.

The defendant and the intervenors will be indulged fifteen days following the filing of the plaintiffs' brief within which to file their respective briefs. The plaintiffs will

then be indulged ten days from the date of the filing of the latter of either the Government's brief and the intervenor's brief, whichever comes last, to file their reply briefs.

The outside limits in this regard, gentlemen, as you will immediately see, the outside limit is fifty-five days, and if somebody makes an earlier filing, it means it will be just to that extent shortened.

I would like to suggest to council that if you have specific findings of fact or conclusions of law that you wish to propose to the Court, please incorporate that as a part of your submission.

I will also call attention to the fact that the Court still has pending before it one unresolved issue, and that is the issue presented by the intervenors on which this morning the Court's ruling was reserved, and there is a possibility that some adjustments in this regard might have to be [773] made dependent upon whether counsel for the plaintiffs decide that they need to take further depositions in connection with Exhibit 31 which was turned in to the Court yesterday.

I want to be perfectly clear about this in case I haven't been on behalf of the Court. If the plaintiffs file in less than thirty days, the time for the defendant and the intervenors to file will begin to run that much faster, and so also, gentlemen, if they don't use their full fifteen days, for the filing of their briefs, your time on filing reply briefs will be shortened.

The final matter is the question of oral argument. It is the view of the Court that a date for oral argument can best be set after you gentlemen file.

Now once you get your filings completed, we of course, will need a reasonable amount of time to review all materials in this case in order to get prepared for oral argument.

You will have the assurance of the Court that we would fix the date for oral argument as expeditiously as circumstances including other work of the members of the panel will permit.

Is there anything further, gentlemen, before the Court concludes this phase of this litigation?

Mr. Stoner: Your Honor, I would have one inquiry of the Court, and that is whether or not the Court would [774] contemplate awaiting a ruling on Mr. Halpin's request of yesterday which the Court reserved a ruling this morning.

Will the Court reserve a ruling on that issue until all the briefs are in and until the whole matter is submitted as a whole?

Judge Robinson: Yes.

Mr. Stoner: Or would the Court contemplate ruling on that in the interim period?

Judge Robinson: What I was trying to convey a few minutes ago and when I mentioned it is you gentlemen would present your written arguments as a part of the written submissions you will make, and you, of course, will have opportunity at oral argument when that day arrives to address yourselves, orally, to it, which means, of course, that we will be deciding that when in all probability we decide the rest of the case.

Mr. Stoner: Thank you.

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Deposition of Mr. Joseph V. Di Rosa

October 5, 1973

[1] Deposition of Mr. Joseph V. Di Rosa, taken in the above entitled cause, before Howard E. Stumpf, an Official Court Reporter, authorized to administer oaths of witnesses pursuant to Section 961.1 of Title 13 of the Louisiana Revised Statutes of 1950, as amended, pursuant to the following stipulation, given in Suite 2 W 23, City Attorney's office, City [2] Hall, 1300 Perdido Street, New Orleans, Louisiana 70112, on the 5th day of October, 1973.

Appearances:

Stoner, Treese & Ruffner
(By: James R. Stoner, Esq.)
For the Plaintiffs (New Orleans City Council)
Nathaniel Friends, Esq.
and
M. Karl Shurtliff, Esq.
For the Department of Justice
United States of America
Kidd, Katz & Halpin
(By: Stanley A. Halpin, Jr., Esq.)
Johnny Jackson, et al

Reported by:
Howard E. Stumpf,
Official Court Reporter

[3] STIPULATION

It is stipulated and agreed that the testimony of Mr. Joseph V. Di Rosa is hereby being taken pursuant to the Federal Rules of Civil Procedure for purposes of discovery. The formalities of signing, sealing and certification are waived. All objections, except those as to the form of the question, are reserved until the time of the trial of the cause.

Mr. Joseph V. Di Rosa, Room 2 E 09, City Hall, 1300 Perdido Street, New Orleans, Louisiana 70112, a witness named in the above stipulation, being first duly sworn in the cause, testified on his oath as follows:

By Mr. Shurtliff:

Q. Would you state your name for us, Sir? A. Name is Joseph V. Di Rosa.

Q. And your occupation, Sir? A. I'm an attorney-certified public accountant and Councilman. You want to put all those things?

Q. How much time do you spend in your [4] Councilmanic duties, Sir? A. You know these Councilman is supposed to be part-time, but it's one of the jobs where you can spend no time or all day depending more or less on how conscientious you are. I would say I would spend more than three-quarters of my time here I would guess.

Q. How long have you held that office? A. I'm in my eighth year.

Q. You've been elected twice previously? A. I was elected once, lost once and came back again.

Q. Which district do you represent, Sir? A. I'm city-wide. I'm at large.

Q. Did you ever represent a district? A. Not as such. I was at large before I lost at large to Moon, and I won now at large.

Q. And you're referring to you lost to Moon Landrieu? A. Right.

Q. What year was that, Sir? A. '66 I think it was.

Q. So you were first elected in '62? [5] A. '62, right.

Q. Defeated in '66— A. Right.

Q. —and re-elected in '70? A. Right.

Q. In 1962 when you first ran how many candidates were there for the at-large post? A. I think there were nine.

Q. Was there a runoff? A. Yes.

Q. Were you in the runoff? A. Right. There were four of us in the runoff.

Q. And by that I take it that nobody won a majority in the first? A. That's right.

Q. So four candidates ran in the runoff to select two who subsequently won? A. Right.

Q. Who else won in that runoff election? A. Fitzmorris, Fitzmorris and I. Landrieu and Eddie Price were defeated. Price ran third and Landrieu fourth.

Q. Do you recall what percentage of the vote you received from that election? [6] A. No, I really don't.

Q. In '66 how many candidates were there for the at-large post? A. I think about, let me see, '66, I don't remember offhand, but I would guess about the same number, maybe a few more. I don't know, but about nine. But I'm guessing.

Q. Certainly. Was there a runoff that year? A. Yes. There was a runoff between Landrieu and I. That was in the '66 election.

Q. So one person was elected— A. Right.

Q. —in the first primary? A. Right.

Q. Who was that? A. Fitzmorris. No. That wasn't Fitzmorris. That was Pitre, John Pitre, because Fitzmorris ran for mayor that time.

Q. In 1970 how many candidates were there for the at-large post? A. I'm trying to think, but I don't really remember, but same thing happened. There was a runoff there. Moreau was elected. Moreau ran on several of the [7] tickets, on Landrieu's ticket also, and he was elected in the first primary. I missed the first primary by 1500 votes, and I won in the second primary against Morial.

Q. What was Mr. Morial's race? A. Black.

Q. Was he the only black in the field for the at-large post? A. I don't remember if he was, no. Gee I don't remember. I really don't.

Q. Did you run second in the first primary? A. Yes.

Q. Mr. Morial run third? A. Right.

Q. In the at-large elections were there two seats to be filled, Councilman Di Rosa? Is there a full slate requirement? A. In what way a full slate?

Q. Do voters have to vote for two? A. Yes.

Q. And what happens if they only vote for one candidate? A. The vote is void.

Q. And has this been the case in all of the [8] elections that you participated in? A. Since the Charter was first instituted. That was in 1952.

Q. And there's always been a majority runoff requirement? A. Yes, right.

Q. As a political candidate how do you campaign with the full slate, by that I mean voters have to vote for, what do you tell your supporters? A. Actually what you did each one runs on his own. That's in effect what happens, and I ran as an independent each time I was on some ticket but not well some tickets you're on, some tickets you were not on, and that's in effect how you run. From a practical standpoint you run as an independent and you're elected. That way each guy runs on his own. Every candidate runs on his own. See there's no teaming up as such in most instances. If you're on one ticket, for example I was on Guste's ticket I believe with Morial. So we used to go together, and you talk for yourself in each of the instances, and tell them to remember you have to vote for two, me and somebody else.

Q. Now let me ask you. What do you tell your wife? Do you tell your wife to vote for you and a weak candidate?

Mr. Stoner: I object to that question. I object to the question. I think it's highly personal matter.

By Mr. Shurtliff:

Q. Your objection is noted. Mr. Di Rosa? A. You want me to answer that?

Q. Certainly. A. You mean what did I tell my wife? To be frank I never tell her anything. If she votes I just

hope she votes for me, and at times she comes out and says I don't even know whether I'm going to vote for you, if you want to know the truth.

Q. As a practical matter do candidates that are running for the at-large seats encourage their supporters to vote for [10] them and a weak candidate? A. No. It's imposition to be frank with you. I'll tell you why. I tell you that from my standpoint because you're too interested in trying to get yourself. You know it's pretty much an imposition to expect to tell somebody to vote for me and somebody else. You're doing enough when you ask them to vote for you, and in many instances if you attempt to do that you run a pretty good chance of losing your own vote. In fact, to be frank with you, that's one of the ways I lost in 1966, because I was trying to help a district councilman, and one of the black preachers was with me at the time, and he went against me and the other guy, too, because I pressed him, tried to get them to vote for a district councilman who was on the council with us at the time.

Q. You mentioned ticketing, Councilman Di Rosa, on various tickets, or what is that process? [11] A. That process is that some mayoralty condidates will get together and try to form what he considers a team, and he gets the two Councilmen-at-large, the District Councilmen race, some of the parochial offices and whatever else happens to be running at the time. The main purpose or one of the big purposes for it is to try to reduce the cost of the election by contributing a part to the general operation of the whole campaign. See first you have to be selected on his ticket, and second you pay for some of the expenses attributable to the campaign, mailing ballots, sample ballots, things of that nature.

Q. How does the selection process take place? A. It's mostly in his mind as far as candidate is concerned. I'm talking about the mayoralty candidates. I couldn't tell you, some factors go into it, some don't. I don't know what

they use as a basis. I guess they look at your voters' appeal and [12] see if there's any possibility in getting you with them on that basis.

Q. You indicate that you were on Mr. Guste's ticket? A. Yes, Sir.

Q. What was Mr. Guste running for? A. Mayor. Judge Gertler also, he ran for mayor.

Q. Are there other organizations or individuals that put tickets together other than candidates for mayor? A. Yes. There are hundreds of them. They have so many of them that it's almost an impractical problem to attempt to pay the cost of ballots and things that go into the canvassing. It's almost gotten, in fact it has gotten out of hand completely.

Q. You say hundreds. How long have there been hundreds? A. Well that's an exaggeration—

Q. Certainly, I understand. A. —but I would say, oh I say each year it starts to get worse, not only every four years but each year the election [13] comes. Every election that they have a new group seems to form you know to start politicking or campaigning.

Q. In 1962 how many organizations were there, could you estimate, that were engaged in that? A. '62?

Q. Of '62. A. I guess there were about 15, 20 major ones that you would call. You know one of them was the OPPVL that you're talking about, we're talking about; CCPL. That's one run by Chink Henry. OPPVL is Reverend Davis.

Q. Is Reverend Davis black? A. Yes, Sir.

Q. Mr. Henry black? A. Right.

Q. Were there any other large predominant organizations? A. Well the Old Regulars, that's one; organization they had what they call CCDA. That's Crescent City Democratic Association. Those two are white.

Q. Right. [14] A. And then they had, I don't know if the other one was started at that time, they had two other black organizations that were fragmented, but they've

joined together since. Some of them have and some of them have been separated.

Q. Was there a Regular Democratic Organization? A. Yes.

Q. That was known as RDO? A. Right.

Q. Was it white or black organization? A. White.

Q. And when you say white organization or a black organization, Councilman, what do you mean by that? A. The members are predominantly white or predominantly black.

Q. Does that hold true today with this proliferation of the organizations? Are memberships of those organizations predominantly black or white? A. It holds more true in the white than in the black. The black is predominantly black or almost exclusively black, and [15] the white is sort of assimilous group, you know mixture of both.

Q. Is the RDO still extant? A. No. It's still in existence, yes.

Q. Is it predominantly white or black? A. Yes, it's predominantly white.

Q. Does it have the weight that it used to? A. No.

Q. Do any of them? A. I doubt it, and the reason I say that is because when you have what they call ward meetings or precinct meetings you know you usually see a very small turnout. People just don't seem to be as interested in elections as they were at other times. I guess there's too much other entertainment.

Q. Was politics a form of entertainment in your lifetime in New Orleans? A. It was a form of entertainment all over the country I believe insofar as even from the standpoint that it was something to do, a place to get out or joining together of people to meet each other and see each other. You [16] know they didn't have the television or radio factors, but people were looking for an occasion to get out, and that gave them that.

Q. Did they have ward headquarters here? A. Yes.

Q. Ward community center as such? A. Yes, wards, precincts, things like that.

Q. Do they still have? A. Yes.

Q. What goes on at those, how often do they meet at the community centers or ward headquarters? A. At election time they try to keep them open as much as they can to try and encourage voters to call people, really in general to get a movement on the part of the people to move for whatever candidates they seem to be espousing the caues of.

Q. In 1970 you ran against Mr. Morial in the runoff election. Is that correct? A. Yes, that's right.

Q. What were the major issues in the runoff election? [17] A. None at all really. We didn't have any other than we had in the beginning, questions of the City, what you could do, experience, background, education. That's the only thing I stressed in mine.

Q. What percentage of the vote did you receive in the runoff election, do you recall? A. About 52 I would guess.

Q. Do you believe that Mr. Morial's race played a part in that election? A. I think it played a part in him getting the vote that he got, yes. I think there's more of a tendency on the part of the blacks to vote as a group than it is on the part of the whites.

Q. You believe that to be the case? A. Yes.

Q. Do you believe it to still be the case? A. Yes.

Q. What do you base that conclusion on, Councilman? A. Oh nothing but speculation.

Q. Did you analyze the results? A. Yes, some results. For example, that they [18] were totally black you might get something like 386 votes to 2. I think that would give you some indication that that might be a block vote.

Q. How about the white precincts? A. I had none that went that way. In fact my own precinct that runs roughly around 450 votes where I live I only won it by 65, and that's predominantly white.

Q. Have you observed this block voting in other elections? A. Yes. I think it's a matter of fact I think.

Q. Could you recite some of the elections that you believe that black voting has occurred in? A. I think in almost all the elections I know of none where it has not, to be frank with you.

Q. And it's your opinion that it's more in the black community than— A. Right.

Q.—than in the white? A. Right.

[19] Q. Do you have an opinion as to the underlying cause of that block vote? A. No, I don't.

Q. How about in other elections other than for election of candidates, say on referendum elections or other constitutional amendments— A. Yes, Sir.

Q. —for instance is there block voting? A. It's pronounced to some extent, but not quite as much I don't believe.

Q. Let me jump ahead. A. To be frank, what happens in most of those constitutional elections people get all disgusted with voting so much and so many and just don't vote at all, have a tendency to vote against them.

Q. The issue of increasing the size of the City Council was put to the people in the form of a referendum this last year? A. (Witness nodded affirmatively).

Q. Do you believe that block voting played a part in those elections? A. I think they did.

[20] Q. And how so, Sir? A. I think it did only in the sense that the cause of increasing was espoused more by the certain groups, but they, no, that's not so come to think of it because they did have a group, in fact it was espoused even by the papers, the increase you know. So you couldn't put it necessarily as a block as such. No, I couldn't say that in this instance.

Q. How about the results though? A. Well same thing, result was mixed, and the vote was light.

Q. Other than the newspapers do you know the names of any white organizations that supported the proposal besides the City Council? A. I think most of them came out for it as I recall. I don't remember offhand. I couldn't tell you to be frank with you.

Q. Were you in favor of that proposal? A. No, I was not.

Q. Did you speak out in opposition to that? [21] A. No. I just let it go. I spoke out on the Council, and the reason for it is that I believe in a Metropolitan Government, and I was trying to join the two parishes together, Orleans and Jefferson. We have five districts and two at-large, and so do they. My proposal was that they put the two parishes together, see with the five district councilmen, two at-large of that, Parish President as the President of both groups and the Mayor as the President of the whole thing, just as they're doing in Atlanta, Dallas, Houston, trying to make some sort of a Metropolitan Government. I think from a financial standpoint it's something that will come and has to come.

Q. Do you know of any of the councilmen, present incumbent councilmen that spoke out in favor of increasing the size of the City Council? A. I couldn't speak for the rest of them, whether they spoke out for it, but they had enough votes to pass it.

[22] Q. Are you familiar with any of them taking a public stand in favor of the proposition? A. Well you take a public stand when you vote for it or against it.

Q. Other than that expression? A. I don't know whether they went out and actually knocked on doors or anything of that sort. I couldn't tell you. I didn't either for or against it. I did speak out on the Council when it came up for a vote, and at that time I stated the reasons that I just mentioned now, and then let it go at that.

Q. Are you familiar with any organizations that were opposed to the Council extension? A. No, not that I know of. I never paid that much attention to it or interest in it.

Q. Was there much interest in it? A. Well they had enough votes in it. I tell you during the elections if you got too many people voting on too many things the people get disgusted by [23] the time they get to the bottom.

Q. Do you think that's what happened? A. I think it was. It would have been defeated by a larger vote if it had not.

Q. If there would have been fewer proposals on the ballot? A. Right. That's my personal opinion of course. A lot of the opposition was built on the increase in costs you know by some of the people that were opposed to it.

Q. Cost of more members? A. More councilmen, more all the other things that go into it, keeping them moving or keeping the office operating.

Q. Councilman Di Rosa, the question of the redistricting has been the subject of consideration by the Council now for something on two years I expect? A. That's right.

Q. At the time that the Council first became interested in redistricting could you indicate what they did? A. What we did at that time?

Q. Yes. [24] A. Sure. At the time we first became, in fact we have to by Charter. You know according to the Charter every ten years we must redistrict. There's no if, and or but, but you must redistrict. So we wait for the returns to come in on the census. After the census comes in by blocks, which is called as I understand the fourth reading or the final figures, we then go in and apportion in accordance with what we believe to be the Supreme Court's decision, one man, one vote. That is 119,000 I heard I think it was per district. So we have to get the five districts in that order. One of the problems we had was with Algiers you know the representation at that time. So we had to increase some districts and reduce others. So we though at that time that if they put Algiers into three districts and gave three councilmen those districts, that they would be more responsive to the people in Algiers and they would [25] have more representation for one thing since that had to be broken, at least that was my thinking, and, of course, I'm not attempting to speak for the others because I couldn't tell you what their reasoning was. But we did it at that time, and according

to law we sent it up to the Justice Department. They sent it back saying they believe this is discriminating, but that's all, never give us any other guidelines or any other reasons. Had they come up at that time we ought to go east-west and not north-south and follow the historic boundaries, we would have gone to court at that time. But in the meantime I think you know the sequence of events. Then we went to the proposed 11-man council and then to the 9-man council, and then went back to another redistricting plan. That's plan that we have is presently before the court now that was done on the same basis that we believed to be the guidelines as set [26] out by the Federal Government, Supreme Court I'm speaking of, and their guidelines was that you follow historic boundaries, you follow natural boundaries and you know that's one of the reasons instead of putting, instead of saying they belong as a group, and of course the number 119,000 or one-fifth each, even though we knew the Supreme Court had allowed variants of as much as humanly possible because of the outlines in the Charter that were set out in 1952 that said every ten years we have to redistrict. It was quite obvious that we needed some definite guidelines when the Federal Government, the Justice Department came out and said that we redistrict on the basis of east-west configuration. Well we thought that was absolutely ridiculous because the Fifth Circuit Court of Appeals had held that the configuration should follow, and so did the Supreme Court as I understand, north-south [27] boundaries, follow the historic boundaries. Now we have had wards since 1902 with the same outline. Assessors run from wards. Everything is set up on a ward basis, and that's one of the reasons we went into that type of configuration that we went into at this time. Now I wouldn't doubt that there might be over 5,000 different variations of that that you have to make. As I understand the Supreme Court decision is to the effect that the decision should be made by the bodies that have to make it, elected

to do so, and that's us, and unless you can, as I understand it, show that something was done that was intended to in some way discriminate against anybody that it would be allowed.

Q. You mentioned that assessors run from wards. Councilman DiRosa, is it not true that they run from combination of wards? A. But the ward boundaries is what follows the [28] outlines.

Q. You also mentioned the Fifth Circuit decision or decisions relative to Senators? A. The Senatorial race was held on the northsouth configuration and to a great extent followed almost exactly what we have.

Q. And the Supreme Court decision to which you referred was what, Sir? A. Well I don't know the citation.

Q. It's not concerned specifically with New Orleans. Is that correct? A. Right.

Q. How about the United States District Court opinion from the Middle District of Louisiana, Judge West's decision, respecting the House of Representatives? Did you consider that? A. No. I undestand that was not appealed.

Q. Did you consider that opinion? A. Did we consider the opinion? Well we considered the Court of Appeal more than we did the District Court.

Q. Why is that? [29] [A] Because it is a higher court and it has more jurisdiction over the others. I think that's basic law, isn't it? It's like taking the Supreme Court over the District Court. We have to consider the Supreme Court rather than the District Court as I understand it.

Q. Are you familiar with the Judge West order respecting the districting the House of Representatives for Orleans Parish? A. Yes.

Q. Does it follow quote "traditional" unquote configuration? A. To some extent it does.

Q. To some extent it does not? A. I think so. I couldn't tell you specifically which ones do and which ones do not. But, as I said, it was not appealed and I con-

sidered that as really a final judgment of the court as such.

Q. Do you think that that judgment was erroneous in the way that it divided the Parish of Orleans for those House districts? A. Well I'm not one to figure, to say one way [30] or the other. The court decided that as far as the decision, and the election was held on that basis. I think that the one that came closer to us is the one that had just about the same amount of members as they do in the Senatorial race, and we paid more attention to that one than we did to any other. At least I did. I'm speaking for myself now.

Q. Did you study Judge West's decision as it respected the Senatorial district as well as the Fifth Circuit's decision? A. Yes.

Q. In your judgment Fifth Circuit result was the better? A. That's right, because it followed more closely the Supreme Court's decision, historic boundaries, wards, precincts, things of that nature.

Q. Who drew the first plan of redistricting, Councilman Di Rosa? A. The staff did, and as I recall we discussed all the plans. See during that time I don't really remember how many plans [31] they had, but there must have been as many as 20 or 30, maybe more.

Q. Did you or other members of the Council indicate to the staff what factors, what consideration should be taken into account in drawing the proposed plan? A. The only ones we took is the fact that they ought to have the same population, 110,000 I think it was. We tried to keep it as close to that figure as was possible.

Q. Did you yourself indicate that was a consideration to the population? A. To keep it within the population, certainly. That's our Charter.

Q. Did you indicate to the staff any other factors? A. None at all.

Q. Do you know whether any of the other councilmen did? A. No. I really don't. In fact I don't think any of the others did, certainly not in the meeting that I attended.

Q. Do you know whether or not the staff was [32] told to draw plans that insured incumbent district councilmen would be in the same district? A. I never did, and I don't know of anybody else that did. You see it's almost, it gets pretty difficult to try to put two together because you start off not just with five citizens running for office. You sart off with five people in five districts and of necessity they're separated because of their being in each district. So in order to try to run one against the other. Unless they live close to the boundary lines it's almost impossible without gerrymandering, see? You follow what I'm saying?

Q. I think so. Is it not true that three of the incumbent district councilmen lived in the northwest, what we would call the northwest corner of Orleans Parish or the City of New Orleans? A. I don't know if you'd call that the northwest. I don't know where, let me put it this way. There are probably [33] some, like the two at-large. Of course, according to our law, the two at-large could live right next-door to each other. We have no basis for that. We don't try to elect on the basis of where they live, but what the qualifications seem to be. Whether a district councilman some of them might run against each other, as I tell you, because of the basic hypothesis that you start off with where you got five different districts you see. Automatically they're separated immediately when you start off. So, as I tell you, unless they live together, close to ward boundaries or close to the boundaries as we have them set out, you know where the wards have been set out for years, it's impossible to bring them together.

Q. Well in your judgment is it not possible to draw district boundary lines, I would say such as that would put those three, at least those three incumbent councilmen in the same district and [34] maintain a one man, one vote equality as required by the Federal Constitution and by the City Charter? A. I guess it's possible to draw 10,000 variations, but who makes the decision? That's I think one of the factors.

Q. Weren't these plans such as that considered by the Council to your knowledge?A. Yes.

Q. And do you know why they were not looked upon with favor or at least the other proposals were looked upon with more favor? A. So far as I was concerned it was because of the gerrymandering that had to happen in order to do that.

Q. What is your definition of gerrymandering, Sir? A. That's where they try to bring in districts you know turn around corners and go around the middle of block or something of that sort to break up neighborhoods and things of that nature without following historic boundaries, that is wards, precincts, [35] canals, roadways, things of that nature.

Q. Are there any other things other than those you just mentioned that you considered to be historic boundaries? A. Not that I can remember offhand.

Q. Why are wards historic boundaries in your opinion? A. Because they've been established, as I tell you, since 1921 when the first constitution was enacted.

Q. Are precincts historic boundaries? A. Precincts are not necessarily historic boundaries as such because we do vary them. If they get too large we try to cut them down so that they're more manageable from a voting standpoint and they take less machines, and the people don't have to wait as long to vote. So they are historic boundaries in the sense that they do come together to form the wards.

Q. I believe you mentioned highways, did you not, as a historic boundary? [36] A. If it follows precinct lines, yes. That's to try to keep people from running across highways, if possible, in order to vote.

Q. Are there other historic boundaries? A. Usually highways like that do form precinct lines.

Q. How about I-10? Does it follow precinct lines? A. Not that I know of.

Q. Is it in your opinion a historic boundary? A. Not

now. It's too new. It's not even finished. Was it a factor in the I-10?

Q. (Counsel nodded affirmatively). A. Not to my knowledge. Not for me it isn't.

Q. Is Canal Street a historic boundary? A. Canal Street separates the Third Ward from the Fourth Ward.

Q. Do you consider it a historic boundary? A. Well if you consider wards a boundary, historic boundary, as I do, then of necessity you would have to consider it.

Q. The City Charter was adopted in 1952, was it [37] not? A. That's right.

Q. Indicated that after each decennary census the Council would reapportion itself one man one vote? A. That's right.

Q. What is the meaning of that provision in light of the fact that even at that time the wards were varying with significant variance in the populations of the wards? A. But there was no change in the wards makeup of the Councilmanic districts, Sir. You see Councilmanic districts at that time up to this present time here followed ward lines.

Q. Exclusively? A. Right.

Q. Is it your judgment that framers of the Charter meant that in all future redistricting ward lines should be followed exclusively? A. Yes.

Q. How does that square with the proposition set out that you meet the one man one [38] vote? A. Squares with it pretty well I think.

Q. Is it possible to combine wards? A. It was up to this time. Now the Ninth Ward has gotten larger in itself, and it of necessity has to be split up to make one man one vote theory.

Q. Which takes precedence then in your judgment, the mandate to meet the one man one vote requirement or your judgment that the framers of the Charter meant that the traditional ward lines should be followed? A. Both. I think they're compatible.

Q. In the second redistricting plan, after the first plan was objected to by the Attorney General, what factors or considerations were taken into account for the drawing of that plan? Do you know, Sir? A. Same thing what I told you before, ward lines, historic boundaries, population. Those were the major factors as far as I was concerned.

Q. Any others that you know of? [39] A. Not offhand. I couldn't think of any at this time.

Q. Do you know of any other factors or considerations that other councilmen might have mentioned that they felt were important? A. Like what?

Mr. Stoner: I understand your question to be, did any other councilmen mention to you other factors that he may have considered? Is that the import of your question?

Mr. Shurtliff: Right, that he would consider, that he did consider.

The Witness: No, not other than what we did. We were just trying to get to 119,000 as close to that as possible and to follow the wards.

By Mr. Shurtliff:

Q. Did you take an active part in the actual drawing of a plan or plans, Councilman Di Rosa? [40] A. The staff did. We told them you know to draw the plans, and they came in with a number of plans, and then we discussed them all to see how they would fit in you know with total population, whether it came around with, whether it followed ward line, see that it didn't jut out, you know jut out in one district or maybe what we feel would break up like areas, neighborhoods. For example, we didn't attempt to break up neighborhoods. In fact we tried to keep them together within the same context of the wards and precincts boundaries.

Q. Why was that, Sir? A. So we wouldn't break them up. So they wouldn't be gerrymandered to any extent, to any extent at all, not to lose anybody's voting, black or white.

Q. What is the solution in your opinion? A. I guess it would be to put more in one district than in another. Draw it and let it fall where it falls. [41] That's what it amounts to.

Q. Where did these discussions take place on the plans? A. Oh gee, I guess we had no specific place. We met together in councilmanic offices and in groups. That's just with all of us, all that came when the meetings were held. I don't know of any specific instance in the Council chamber. Of course, we had people come before us to present plans for the hearings that we had.

Q. Did you ever participate in any discussions with other council members as to the specific relocation of the proposed lines from this area to this area? A. We all did, yes, we looked at it. We looked at the overall plan and see how it fits with the number of votes, whether it splits up neighborhoods. Of course, we directed the staff not to do that, not to split up neighborhoods, and, of course, the plans that were sent back did.

[42] Q. Were registration figures available at that time to the members of the Council? A. I understand that some of them were available. I don't know whether all of them, but I know the ones that were presented were made because I think your department asked for them.

Q. Were registration figures used in these meetings? Were they discussed at these meetings that you know of? A. I guess they were, but I don't remember any instance where it was. That's something that really didn't interest me too much, as much as the population breakdown was.

Q. Why was that, Sir? A. Well running at large I had no particular interest in the districts as such other than to see that they followed the same boundaries and didn't dilute, that is didn't gerrymander in one instance to try to break up neighborhoods and followed the historic boundaries, which I believed [43] to be the reasoning of the Supreme Court.

Q. You believed that district councilmen had more of a specific interest in a particular district boundary than you

did? A. I guess every district councilman has an interest in his district.

Q. Is it not true, Sir, that the specific location of district boundary lines and the adjustments of such boundary lines was left more particularly to the councilmen involved? A. Not to my knowledge.

Q. You indicated that public meetings were held on the question of redistricting? A. I think that's the law, yes.

Q. Did you attend those meetings? A. Positively. In fact I think I ran the meetings.

Q. And did members of the public attend those meetings? A. Yes.

Q. And expressed their opinion on the question—? [44] A. Yes.

Q. —of redistricting? A. That's right.

Q. What kind of persons or organizations were represented at those meetings? A. Well I guess just about everything in the City, everybody in the City. We had Chamber of Commerce, Public Affairs Research Council, Bureau of Research, number of people came and a number of individuals, too.

Q. What position did the Chamber of Commerce take on these? A. I don't remember specifically what position anybody took really.

Q. Were the members or spokesmen for black organizations at those meetings? A. Yes.

Q. And did they speak? A. Yes, they did.

Q. Do you recall what they spoke to or what position they took? A. Yes. Some of them spoke to 11-man Council. Some spoke to a 9-man Council and spoke to different types of redistrict- [45] ing, but all of them spoke on basis of the north-south redistricting.

Q. Do you recall which organization or which person spoke to an 11-man Council? A. No, not as such.

Mr. Stoner: Well I would suggest that the question should be identified as to time.

By Mr. Shurtliff:

Q. Let's say the first series of public meetings at the time of the first plan of redistricting was being considered. A. Some of the proposals, as I recall some of them did respond, but no specific group. As I recall I think there was a coalition of several groups that suggested one 11, another one suggested 9. Some suggested doing away with the at-large councilmen, but, of course, that's a matter of Charter change.

Q. Were those that spoke to an 11-member Council, were they talking about a 9-district, two at-large? [46] A. Yes.

Q. Do you recall any organization or any person speaking on the question of or the proposition of 11 single-member districts? A. Yes.

Q. Do you recall who and what? A. No. I don't remember who they were.

Q. That would involve a Charter change. Is that correct? A. All of them would have involved Charter change.

Q. Subsequently the Council did enact ordinance calling for— A. A referendum.

Q. —referendum on proposed charter amendment dealing with a 9-districts, 2 at-large and a 7-district, 2 at-large plan? A. Right.

Q. Was any ordinance ever proposed to amend the Charter to provide for an 11 single-member district plan? A. No.

Q. Do you know why it was not? [47] A. We just didn't think it would work that way, see, because in order to do that you had to change more sections of the Charter than just the parts that redistribute because if you did that there would be a question then of which one would be elected as the Council President and have the corresponding duties that they have, that is, that they have Ex-Officio to serve on different boards and agencies. For example, the two Councilmen-at-large serve on the Sewerage & Water Board. That section would have had to be changed or the Sewerage & Water Board law would have had to be changed that created the 2-man Council-at-large districts. Two of the Councilmen-at-large serve on the Board of Liquidation of City

Debt. That's a constitutionally created body. The State Constitution would have had to be changed in order to make that provision so that there wouldn't be any two Councilmen-at-large, and it would be a question of which [48] two councilmen would serve on that Board and sever the use of two Councilmen-at-large. I don't remember offhand, of the other boards and commissions, but it would have necessitated changes not only in the Charter of the City but in the State Constitution as well.

Q. Did the inauguration of the two at-large City Councilmen in 1952 require constitutional changes? A. It made provision in the Sewerage & Water Board and in the Board of Liquidation of City Debt to allow those two to sit on those commissions, yes.

Q. The ordinance calling for seven single districts and two at-large and the nine single districts and two at-large were passed at or about the same time. Is that not correct, Sir? A. No. The 11-man was passed, that is put to a referendum of the people, and when it failed, then the 9-man was put to the people, and when it failed then we went back.

[49] Q. But initially the ordinance called for these hanges by the City Council passed about the same time. Is that not correct? A. Yes. We had one 11 and another 9 both put up.

Q. And they called for election on the same date on those two? A. Right. And the Mayor vetoed one, and his veto was upheld.

Q. But at the time of passage of those two ordinances calling for the election on the same date on those two questions, was the question of passage of both of them considered by the City Council? A. Yes, but it became moot because the Mayor vetoed one and his veto was upheld. So only the 11 went to the people first that is.

Q. But it was the desire of the City Council after their passage that they both go to the people at the same time. Is that correct? A. To provide a majority, yes.

Q. Was there words of expression at that time [50] as

to what the impact would be if both secured the approval of the people at the same time? A. Yes, there was.

Q. What was the discussion? What was the expression? A. Well as to how it would be done or what would happen?

Q. Right. A. That's all, just along those lines, but, as I said, it was all moot because the Mayor vetoed the 9, first let the 11 go to the people singly and by itself, and it did see, and a majority of the Council voted for it.

Q. Voted for what, Sir? A. To allow 11-man Council to go to the people by itself.

Q. How did the Council vote for that, by failing to override the Mayor's veto? A. That's right.

Mr. Shurtliff: I have no further questions.

[51] By Mr. Halpin:

Q. Mr. Di Rosa, you mentioned that you were elected to City Council the first time and at-large in 1962. Did you hold any elective office before that date? A. No.

Q. Have you lived all of your life in New Orleans? A. Yes. I was born here, lived here all my life and hope to live the rest of it here.

Q. During your term from 1962 to '64— A. '66.

Q. —to '66— A. Four-year term.

Q. —were you aware during that time of many demonstrations, particularly sit-in demonstrations, by black people in the City of New Orleans, to secure service at public lunch counters? A. Yes. I think that was all over the country, much more violent in other sections than here though.

Q. Do you know (interrupted by witness). [52] A. If I might elaborate.

Q. Go ahead, excuse me.

Mr. Stoner: Go ahead.

The Witness: I'd rather not.

By Mr. Halpin:

Q. Do you recall the specific measures that the City Council took during those four years relative to those lunch

counter demonstrations? A. No. They were violation of the law, and they just enforced the law. We didn't take any specific action other than to have the law enforced, that's all.

Q. When you said they were violations of the law, what do you mean? A. Sit-in demonstrations and any interference of the rights of others is a violation of the law in my opinion, and I think that's the law.

Q. Do you recall when Reverend Alexander, local black leader, was dragged out of the City Hall cafeteria, was [53] dragged out by his heels when he tried to demonstrate and sit in the cafeteria? A. I was not here at that time. I was out of town at the time. I have heard of the incident, but I don't know if it was by his heels as you described it.

Q. But you were aware during that time the City Hall cafeteria refused to serve black people? A. Positively.

Q. And did the City Council take any action or resolution in regards to that situation during that 4-year period from '62 to '66? A. Not that I know of.

Q. That was again a violation of the law? A. What?

Q. For the people that were trying to be served in the City Hall cafeteria they were violating the law? A. If they violated what was considered the peace of the community at that time they were, yes.

Q. Did you support those endeavors? [54] A. Support them in what way?

Q. Did you support them in any way? A. I didn't support them nor was I against them.

Q. But you believe that they were violations of the law? You believed that the conduct was illegal activity? A. The conduct itself?

Q. Yes. A. Yes. If it interferes with the rights of others I think it is.

Q. Are you aware that since that time Federal Civil Rights legislation has been passed which allows for non-discrimination in such public accommodations? A. And that's the law now, and we, of course, abide by that.

Q. Were you ever a member of an organization called Save Our Schools? A. No, sure wasn't.

Q. Are you familiar with what that oraganization was? A. I don't remember it as such to be frank with you. I had nothing to do with [55] it nor was I in any part of it.

Q. Do you recall in 1959 and in 1960 and in the years immediately thereafter, when the New Orleans Public Schools were being desegregated for the first time? A. I don't believe I was on the Council at that time.

Q. Do you remember at that time though? A. I remember they had some turmoil about that, yes.

Q. Were you a member of any organization either in support or against any of that activity relative to the desegregation of schools? A. I was not.

Q. Have you ever in those years between 1962 and 1966 did you ever take a position supporting the Civil Rights of black people in Louisiana? A. Yes. I think we all did on the Council.

Q. Did you take a position supporting that blacks should be served at places of public accommodation prior to the Civil Rights law? [56] A. It didn't come up in our administration, and it was never presented and was never taken up that I can recall.

Q. Now you mentioned that in devising the Moreau plan, that is the second plan, that you knew that the Supreme Court had allowed a 16 percent deviation. Was that your testimony? A. Right.

Q. Isn't it true that the decision which you referred to, Mayhem versus Howell was actually decided after the Commission Council had adopted the resolution? A. I don't remember exactly whether it was after or not. But I do recall that others had allowed other variations before that time. I think it was 6, 8 and 10, and then last one was the 16.

Q. You mentioned that in New Orleans assessors— A. Excuse me.

Q. That's all right. A. I also said at that time we kept it as close to 119,000 as we could.

[57] Q. You mentioned that New Orleans assessors are elected from combinations of wards. Is it not the primary duty of assessors to assess real property and keep records and so forth relative to real property in the City of New Orleans? A. Yes, and personal property also.

Q. Now is it not true that the property in the City of New Orleans is organized by wards? A. No, it's not true, it's not organized.

Q. In what way is it organized? In other words, if you would file a legal description of property, legal property, would not you described it as being in the ward such and such, section such and such? A. No. I think our description is more on the basis of assessors' districts in district so and so and follows those descriptions.

Q. In districts. It doesn't go into wards and/or precincts? A. No. It gives a description and it gives [58] section, like the Fifth Municipal District for example or something of that nature.

Q. Now you mentioned that in determining to use a river-to-lake configuration of the districts that you were influenced by the decision of the Fifth Circuit in regards to the Senatorial seats in the City of New Orleans. Is that correct? A. Well influenced only to the extent that it followed historic boundaries.

Q. Were you aware that that same Fifth Circuit decision in fact also affirmed the legislative districts? A. No.

Q. Were you aware that the United States Supreme Court in a case called Taylor versus McKeithen, in a per curiam opinion, granted certiorari to review the Fifth Circuit's opinion relative to the four Senatorial districts? A. I understand that's the case, but I understand it hasn't been done yet.

[59] Q. Did you examine that per curiam opinion issued by the Supreme Court in Taylor versus McKeithen— A. No.

Q. —for guidance relative to drawing the districts? A. No.

Q. Have you ever run for any other political offices besides councilman? A. No, none at all.

Q. In campaigning for the at-large seat have you had occasion to form political alliance with other candidates who were running for district seats on the City Council? A. No. As I tell you, it's sort of an individual proposition. Everybody runs for themselves you know.

Q. Is it different running at large than it is running from a particular district? A. Certainly it is. You run city-wide. It's much more burdensome than running in the districts.

Q. How is it more burdensome? A. Well in the sense you got more to cover. [60] You got meetings, for example, in one section of the City. Next time it might be in other end of the City In districts you limit yourself to just that area.

Q. How else is it more burdensome to run at large? A. Well in a sense more votes, more people, more organizations, more everything.

Q. When you say more organizations? A. It's practically the same as running for Mayor. In fact there isn't too much difference other than one is the head and the other isn't.

Q. Well you say it's more, there are more organizations and it's more burdensome. Could you testify what you mean by that? What do you have to do? A. Well drive to the political organizations because you have to coordinate them, that is, if you have several organizations that's backing you, and that's usually the case. Then you try to make all their meetings, and usually they set them up at 8 o'clock, [61] and it becomes almost an impossible task to go to all the meetings at 8 o'clock. So you wind up explaining to them, those you missed, you try to go back and rectify it with the people because you didn't show up to theirs and you went to the other ones, and I think that becomes a little burdensome.

Q. So it's more expensive to run at large than it is in a district? A. Oh yes, much.

Q. About how much would you estimate that you spent in each of your campaigns starting in 1962? A. Gee, I really don't know.

Q. Could you give me a rough estimate? A. I would have to be too rough. I really couldn't tell you a thing, anything about that. I would say maybe 30,000, something like that I would guess.

Q. How does one go about raising campaign money for at-large elections? A. Well for one, as I told you several weeks [62] ago, Pete Fontain in town gave a concert for me, and we charged $25.00 a person to come to the concert, made some money from that.

Q. How many people did you have in attendance there? A. I guess about 400 I would imagine, something like that. I wish they would have had 10,000.

Q. About how many of those concerts and testimonial dinners would you have to raise money?

MR. STONNER: I object to the question, I don't believe there's any evidence that there was testimonial dinners.

BY MR. HALPIN:

Q. OK. How many of similar sorts of occasions for raising campaign money would ordinarily take place in a given campaign? A. You do as many as you can without trying to make it too burdensome. You see that becomes really question of how many people will try to do it for you, [63] and then you got to be careful that you don't antagonize more voters and then you try to get funds from, and in that instance you might wind up having a negative factor instead of a positive factor.

Q. In the three times you know that you've run for Councilman-at-large approximately how many similar fund-raising functions would you have in each campaign? A. I guess three or four. That's just a rough guess.

Q. What other sources of campaign funds would you have? A. Friends contribute, borrow money yourself or try to get it somewhere.

Q. What would you say was your single largest contribution from an individual or a group in say your last campaign? A. Oh I guess about 2,000, something like that.

Q. And about how many $2,000 contributions would you ordinarily receive? A. Well if you got three or four you'd be [64] doing pretty good.

Q. Do you usually get three or four? A. Sometimes you get three or so.

Q. How does one gain the endorsement of particular political organizations and groups in the City of New Orleans? A. You appear before the groups. Usually they call you in before the group to appear before them, and then you make a statement to them. All the candidates do make a statement, and then they ask questions on the statements that you make and then they retire and evidently cast a vote between them, and from that way you get the endorsement.

Q. Then what do they do for you as a candidate? A. Try to contact people. It's a question of trying to contact as many people as you can during the campaign and try to espouse your cause.

Q. Do they put any money into your campaign? A. No, very seldom. I don't know of any of them that does that.

Q. In fact isn't the practice usually the [65] reverse? The candidates will give a certain amount of money to the political organization to assure that they'll have the money to campaign for him? A. Print ballots, mail-outs of people, canvas the neighborhood for you, get your literature out, yes.

Q. About how much does a candidate usually have to contribute to a political organization by way of their expenses and so on for their endorsement? A. It depends on the size, whether they're city-wide, whether it's pre-

cinct or ward setup, and usually on that basis might run from $100 to maybe $1,000.

Q. For instance, what political group was your largest supporter, biggest supporter in the last councilmanic election? A. I was hoping they all were. I couldn't name you any one group. I wasn't going to take a chance on saying, no chance. You mean some of groups you mean? [66] Q. Some of the groups that were for you. I just wanted you to give a group. A. No groups were more important than others. When you're running they're all important.

Q. I understand. Just name of the ones that did support you. A. OPPVL. That was Reverend Davis; CCVL, that's Chink Henry. I think he represented me; the RDO; CCDA.

Q. Are any of these political groups traditional political enemies? A. I guess they all are to some extent.

Q. About how much did you have to contribute to the OPPVL? A. Nothing.

Q. When you obtained the endorsement? A. Nothing. I don't believe Reverend Davis charged anything.

Q. How about the CCVL? A. I don't think he charged anything either.

Q. How about the RDO? A. RDO, I think that was $1,000 I believe.

Q. How about the CCDA? A. I think that was about the same. Those are [67] from memory. That's for mail-outs, as I tell you, and ballots and things of that sort.

Q. When you're running at large do you tend to spend more of your campaign money on for instance television and citywide media than you would if you're running from districts? A. Yes.

Q. Is that type of political advertisement generally more expensive by its nature than other types? A. Yes, it is.

Q. Do you recall about how much you spent for media advertising in your last campaign for City Councilman? A. No. I really don't. We had an agency handling some

of it. Of course, they operate, they get 15 percent of whatever you place, and they don't charge you anything.

Q. Is there any way that you could check it? Is there any way that you could determine from the agency that handled your advertising the amount of money [68] that was spent on media advertising and have that available when you're in Washington on the 17th? A. I don't know. They're not in business anymore. In fact they're in a different type of business now, production. I don't know if they still maintain that kind of records.

Q. What is the name of the agency that handled you in the last election? A. Barra Bircher.

Q. Could you spell it? A. B-a-r-r-a I think is his first name and B-i-r-c-h-e-r.

Q. And you said that's no longer in existence as advertising agency? A. Right. He's been in about four agencies since that time I believe.

Q. Did the same outfit also handle your advertising in '62 and '66 campaigns? A. No. They didn't handle it then.

Q. Do you recall who handled it in 1966? A. No. In '62 we ran as a ticket, that is on the Mayor's ticket. I ran with Schiro, as I recall, and I don't think [69] we had an agency as such; placed it more through some friends in the media without any advertising agency as such.

Q. It wasn't the same type of campaign. In that instance you pooled the money with the ticket? A. Right.

Q. And they spent it? A. Right.

Q. And that was the easier way, particularly when you were running at large, because you'd get more value for your dollar? A. That's correct.

Q. So it's an advantage in an at-large seat to run on a ticket? A. Well it could be a disadvantage. It all depends on what you're saddled with. You see it all depends on all the other members of your ticket over which you have no control.

Q. Let me correct it. It's a financial advantage to some extent? A. It's a financial advantage when you're running city-wide to join together with as many tickets as you can when [70] they have a city-wide election when you're running by yourself. That is two at-large districts, and one at-large councilman looks to get on as many tickets as he can with as many people as he can to try to get as much exposure as he can. It's a question of exposure.

Q. How about 1966? You recall what advertising agency handled your campaign advertisement? A. I don't believe I had any then either.

Q. Did you run on a ticket then as well? A. Yes. I ran with Schiro again when we ran back for re-election. He was sick and he ran his campaign, and I wound up losing by about 257 votes out of 140,000.

Q. Would you be willing to contact your advertising people to see if they have those records available and bring them with you to Washington on the 17th? A. I have no objection to it. I don't see what purpose it serves. I really [71] don't know what that has to do with redistricting.

Q. Maybe I'll speak with your attorney after the deposition in regards to that. A. Yes.

Q. Where is Mr. Barra, his first name is Barra? A. Barra Bircher, right.

Q. Where is Mr. Barra Bircher employed, do you know? A. I really don't. He was working at the race track you know as a promotional man there, and then he went with about three agencies since that time. I don't know where he is now.

Q. You mentioned that in developing the Moreau plan you gave serious consideration to natural boundaries and roadways and so forth. Is that correct? A. Wards I said, yes, historic boundaries.

Q. Referring now to the first plan that was adopted, was that a serious effort to create a fair redistricting plan? A. In my opinion it was certainly.

[72] Q. Did you also consider the Supreme Court's decision and other decision that you mentioned in developing that plan? A. Positively.

Q. And in your opinion that plan also followed natural boundaries and historic boundaries and ward boundaries? A. With the exception that the wards had to be broken up, yes. See, this is first time, as I said before, that the ward boundaries cannot in themselves form a district.

Q. In your opinion was the first plan as fair a redistricting plan as the second one?

Mr. Stoner: I object to that. The first plan was adopted by the Council. It was objected to by the Department of Justice. The second plan has been adopted. I don't think it's proper to ask the witness to evaluate on the question of quote "fairness" end quotes between the two plans. I instruct the witness not to answer the question because I think it's [73] speculative. I don't think it has any probative value.

Mr. Halpin: We will raise that again. Note that I do think it's relevant.

By Mr. Halpin:

Q. Did you consider, for instance, the splitting up of Algiers into three portions in the first plan as conforming with the criteria of the natural boundaries? A. Yes, Sir, I do. As I told you, the reason for it was that three members would then be responsible for that area and they would have three votes to look for because in any election that's anywhere close every precinct even means a lot to an elected official. We look at it on the number of votes you have and you wouldn't think of alienating that many people in your district.

Q. Did the first plan tend to dilute the votes of blacks in the City of New Orleans? [74] A. I don't think any of them did, any of them that we proposed.

Q. How is the Council President chosen? A. It's by custom. We used to rotate it every six months between us.

We now rotate it every four months, and so do we rotate the Vice President, which is one of the district councilmen. That, too, is set forth in the charter, not the rotation now, just the fact that the Council President shall be one of the two councilmen-at-large and Vice President shall be one of the five district councilmen.

Q. Is part of the philosophy of having at-large members of the Council that these members will respond to a different constituency, that is a city-wide constituency and the district members respond to district constituencies? A. I would think that's part of the theory it would be sort of a balancing force between districts.

Q. And sometimes the majority say in a district is not the same as a majority in the [75] City in terms of an issue? A. That's very possible.

Q. And generally as a councilman you would then, as an at-large councilman, you would be generally responding to a majority of the people in the City as a whole? A. That's right.

Q. And that majority is white? A. No, I don't know if it is. I think the contention has been made by you that it's 50 percent. Certainly it's been the contention that we've been hearing.

Mr. Halpin: I have no other questions.

Mr. Stoner: I have no questions.

Deposition of Mr. Clarence O. Dupuy
October 5, 1973

Deposition of MR. CLARENCE O. DUPUY, taken in the above entitled cause, before Howard E. Stumpf, an Official Court Reporter, authorized to administer oaths of witnesses pursuant to Section 961.1 of Title 13 of the Louisiana Revised Statutes of 1950, as amended, pursuant to the following stipulation, given in Suite 2 W 23, City Attorney's Office, City Hall, 1300 Perdido Street, New Orleans, Louisiana 70112, on the 5th [2] day of October, 1973.

APPEARANCES:

STONER, TREESE & RUFFNER
(By: JAMES R. STONER, ESQ.)
For the Plaintiffs (New Orleans City Council)

NATHANIEL FRIENDS, ESQ.
and
M. KARL SHURTLIFF, ESQ.
For the Department of Justice
United States of America

KIDD, KATZ & HALPIN
(By: STANLEY A. HALPIN, JR., ESQ.)
For defendant intervenors,
Johnny Jackson, et al

REPORTED BY: Howard E. Stumpf,
Official Court Reporter

[3] STIPULATION

It is stipulated and agreed that the testimony of MR. CLARENCE O. DUPUY is hereby being taken pursuant to the Federal Rules of Civil Procedure for purposes of discovery. The formalities of signing, sealing and certification are waived. All objections, except those as to the form of the question, are reserved until the time of the trial of the cause.

Q. Did you participate in the deliberations considering that plan prior to its being drafted? [8]A. Before the Commission Council?

Q. Yes. A. When the plan was presented to the City Council I did participate in the deliberations.

Q. What were the guidelines in drawing up the districts? A. Well to try to equalize the population as between the five districts, to try to come up with a plan that we could approve that would use natural boundaries as much as possible to those districts.

Q. What natural boundaries are you referring to? A. Well I'm talking about the ward boundaries. Well the natural boundaries would be the canal running between the lake and the river. They run north-south. We also tried to stick to traditional boundaries as much as possible. I mean the ward boundaries.

Q. What is your understanding as to the function of the wards? A. Function of wards as I understand it was to [9] divide the City into wards which will be used in districting the State legislature, City Council, and in particular with regard to the legislature to provide as much representation of the people in each ward in the legislature as possible, and to get as much representation in the State legislature from the City of New Orleans as we possibly can get.

Q. Is it your understanding that any redistricting should follow ward lines? A. No. I don't think that redistricting of the City Council should necessarily follow ward lines, and I don't see that it's possible to redistrict the City Council sticking strictly to ward lines, and the plan that we approved did not stick strictly to ward lines. We traversed ward lines. The redistricting plan that we approved that I voted for includes some precincts in Ward 7.

Q. But you indicated that was one of your guidelines? [10] A. That was one of the guidelines, yes.

By Mr. Stoner:

Q. Are you familiar with the ordinances increasing the size of the City Council? A. Uh, huh.

Q. What were those ordinances? A. I think we had one ordinance that was approved to increase the total membership of the Council to 9 and I think the other one was 11.

By Mr. Friends:

Q. Did you speak in favor of either one of those ordinances? A. Well I spoke in favor, no, I don't recall whether I spoke in favor of them. I know I had serious reservations about increasing the size of the Council, although I remember I believe, if I remember correctly, that I voted in favor of submitting to the people the 9-member plan, and I think I voted, if I remember correctly, and this is strictly from memory, I think I voted against the 11 plan.

[11] Q. What were your reservations based on? A. I don't think it's necessary to increase the City Council to give every citizen in the City of New Orleans proper representation. I don't think it's needed, and I think it's going to be very costly by adding additional members of the Council to provide office space to them, salaries, increased staff, and in a City this size I didn't think it needs to have a City Council in excess of 7 members.

Q. Were public hearings held on the first redistricting plan? A. Yes.

Q. Do you recall what persons attended those hearings? A. On the first redistricting plan?

Q. Yes, either persons or the groups. A. I can remember some of them, yes.

Q. Were there any black groups? A. Yes, there were some black groups in attendance.

Q. Did they favor the redistricting plan? A. I think so. You mean the 9 and 11 or are [12] you talking about the first redistricting plan?

Q. The first redistricting plan? A. If I remember correctly I'd say the majority my impression was I think. You're talking about black people now?

Q. Yes. A. The majority of the black people at that time were not in favor of the redistricting plan. The majority as I understand at that time was in favor of enlarging the City Council, the membership of the City Council, when that first plan was before the Council. That's the impression that I got.

Q. When this ordinance was put before the people? A. What ordinance?

Q. The ordinance of 11-man Council. A. Oh 11-man Council?

Q. Yes. At the time of the referendum do you recall the election results? A. The precise election results, no, I don't.

It was defeated by the people. I [13] don't recall the precise election results.

Q. Do you think that most of the black persons voted for that? A. I would have no way of knowing that and didn't even inquire about it.

Q. During the three times that you run for office have you ever had a black opponent? A. I've never had any person who asserted publicly that he was a black person to run against me. But whether any of them were in fact black people or not, it would be very difficult for me to say.

Q. You don't know the race of the candidates who ran against you? A. No, I don't. If you asked me if they're Italian, French, German, Negro or whatever their race, no, I didn't. I never did inquire about that.

Q. You can't recognize a black man from a white man? A. Well sometimes it's obvious and sometimes it isn't. It's usually not in my [14] mind when I look at someone as to whether he's black or white.

Q. Did you ever run on a ticket either time you ran for office? A. Yes, I have.

Q. In the first election, being '62, what ticket did you run on? A. The ticket was headed by James Comiskey.

Q. And what office was he running for? A. Mayor.

Q. Were you on any other tickets? A. What's that?

Q. Were you on any other tickets? A. Not that I remember.

Q. What about the election of '66? A. Let's see, the next election, I'm trying to think who was running for mayor in that election. I believe in that election that Fitzmorris was a candidate, and I believe that I was on his ticket.

Q. Were you on any other tickets? A. But I'm not completely certain of that.

Q. Was that the only ticket you were on? A. I believe so. I don't remember precisely [15] whether I was any other tickets, but I don't believe I was.

Q. What about the last election? A. The last election I was on Fitzmorris's ticket. I think he was a candidate for Mayor, and I was on no other tickets but his ticket.

Q. How do you go about getting on the ticket of the candidate? How do you go about getting on the ticket in running for office in New Orleans? A. Well you try to get on as many tickets as you possibly can get on.

Q. How do you go about doing that? A. Well you ask to get on it. You ask the candidate. You discuss it with him.

Q. Do you know what factors are considered? A. By whom?

Q. By the person who is accepting you on his ticket or considering you for his ticket? A. Well in the questions that some of them have asked me when I have discussed it with them they're interested in knowing whether I would be an appealing [16] candidate to the people, that I have the background. I think they probably look at if I've been in previous elections, probably look at how bad or how well I've done in previous elections. I think those are the things that they consider. I can't say everything that they consider because I've never had one to tell me and I've never asked him.

Q. Have you ever been on a ticket with a black candidate? A. I don't remember whether Fitzmorris had any black candidates on his ticket or not last time.

Q. Were you supported by any black organizations? A. Yes, I was.

Q. What organizations were they? A. I have previously been supported by Reverend Davis's organization, and I don't remember the full name of it, who is a black clergyman and who headed that organization, and I'm trying to think of the names of them now. I can't remember the names of them, but I would say I've been supported by a substantial number of black organizations.

Q. Are those organizations in your district? A. Yes. They had representation in my district. Some of them were citywide organizations.

Q. What are the black organizations in your district? A. The black organizations that's just in my district solely?

Q. Yes. A. I don't know whether the Treme Improvement Association is a political organization or not, but I would think if they are political organization they are solely in my district, and I've had black individuals to support me very strongly.

Q. Do you know where the headquarters of the Treme organization is? A. Yes. It's right off of Orleans.

Q. Is that a black neighborhood? A. Yes, predominantly black neighborhood. [18] As a matter of fact it's a pretty fine progressive organization at times, and just yesterday I authored an ordinance that approved a recreation center for that area, a very substantial recreation center to be located in that area which I've been working on for a number of years.

Q. Is that in the City budget? A. Yes.

Q. Is that the only black neighborhood in your district? A. No. You're talking about the district as it's composed now or under the second redistricting plan? You're talking about the plan that is before the courts now?

Q. Yes. A. No. We have a predominantly black area around the Fisher Project in Algiers and certain precincts of the Fourth Ward are predominantly black, I'd say in the downtown section of the Fourth Ward. Again in certain parts of the French Quarter, which is in my [19] district, they have solid black areas or predominantly black areas. There's a number of black areas in my district.

Q. What is your estimate as to the number of blacks in your district percentagewise? A. I don't know. I wouldn't hazard a guess as to what the percentage is. I have looked at those figures in the past, but I don't remember what they were; didn't try to remember them.

Q. Did you consider those figures in the deliberations considering the first redistricting plan? A. No, only in the sense that we wanted to make sure that we were not diluting black voting strength, only in regards to that.

Q. What do you mean by diluting? A. Well shifting around any mass areas where they were predominantly black people located to areas where we would have a predominantly white majority and thereby diluting the voting strength [20] of the black minority.

Q. Did you use the previous district as a standard? A. What previous?

Q. Prior to the redistricting. Did you try not to make blacks any worse off than they were before? A. I tried not to dilute black voting strength. I don't know what you mean by making sure they were any worse off than they were before.

Q. Well district had say 50 percent black, would you try to make sure that they maintained that percentage? A. No. We had to follow other guidelines of making sure that the population was as equal as possible.

Q. What did you follow for the second redistricting plan? A. The same; tried to follow the natural boundaries as much as possible, equalize the population of each district.

Q. Did you consider any plans that called for joining guidelines in an east- [21] west fashion. A. I don't believe

there were any plans on the east-west, but I'm not completely sure of that because there were so many plans that were discussed and so many plans that were prepared by the staff it would be very difficult to say if any of them included east-west. They may have and they may not have.

Q. Mr. Dupuy, this City have a methadone clinic? A. Yes.

Q. Where is that located? A. There are several of them. I don't know the exact addresses of any of them. The one that's in my district that I remember quite well. I think it's on Tulane Avenue.

Q. Is that a black neighborhood? A. I really don't know if you mean by black neighborhood you mean predominantly black, I don't know whether you could say it's predominantly black. There's a lot of businesses in that area. I [22] don't believe it's predominantly black.

Q. Do you think it's a proper location? A. Well I wouldn't have any way of knowing whether it's in the proper location. From what point of view?

Q. From your point of view.

Mr. Stoner: I'm going to object to this line of questions. I don't think it's relevant at all in the issues in the case. I don't know what it has to do with the matter that is before the court and in the case in which Mr. Dupuy is being deposed. My opinion it's completely irrelevant, and I'm going to object to the question.

Mr. Friends: Objection is noted.

By Mr. Friends:

Q. Do you think it's in a proper location? A. You want me to answer that?

Mr. Stoner: If you can, go ahead and answer it, [23] Mr. Dupuy.

The Witness: I don't know whether it's in a proper location or not.

By Mr. Friends:

Q. Have you taken steps to have it moved? A. No. I not yet taken steps to have it moved. But if you're referring to, and I take it you are referring to the motion adopted by the City Council which was submitted to the Planning Commission to determine whether the zoning laws of the City are to be amended to provide certain zoning areas in which methadone clinics should be located. Is that what's on your mind? Is that what is prompting you asking me?

Q. Just answer the question, please? A. Will you repeat the question?

Q. I asked you have you taken steps to have it moved? A. I've taken steps to review the location of all methadone clinics in the City of New Orleans, and that matter is [24] presently pending before the Planning Commission, which is the City's experts on zoning to determine whether methadone clinics should be located just in areas of the hospitals, where the hospitals are located and whether the zoning law of the City of New Orleans should be amended to be provide that or not. I have not made up my mind whether I would support any changes to it or whether I'd agree to let the zoning law stay as it stands.

Q. So I take it you have not suggested an alternative location for the one in your district? A. I have not suggested an alternative location for the one in my district.

Q. During your tenure on the City Council have you had occasion for black groups to present certain issues to you that were of particular interest to them? A. Yes.

Q. Would you explain some of those issues? [25] A. Just the most recent one is a group of black businessmen complained to me of lack of police protection in the area where they have their businesses which is predominantly black. They complained to me to assist them with the Police Department to increase the police protection in that area because of the large incidents of crime, which I did, and the police patrols in that area were increased.

I've had similar requests from a group of black ladies that came in to see me about increasing the police protection in the Calliope Project, which is Federal housing project, located in my district where there's been a large incident of crime. I had a black group to request my assistance in getting through the project, which I was successful in obtaining yesterday, recreation area in the Treme area. I've had black groups to obtain my assistance in obtaining employment. I've had all [26] kinds of requests from black groups.

Q. You're talking about requests that you personally handled? A. Requested me personally.

Q. OK. Have you had groups to come before you sitting with the Council? A. Sure.

Q. Certain problems? A. Yes.

Q. Would you explain some of those? A. Well I can remember an outstanding example of the black groups appearing before the City Council was when we had the public accommodations ordinance before the City Council.

Q. When was that? A. This was several years ago. If I remember correctly, it was approximately four years ago. Matter of fact I think it was right after the last election, after I was re-elected the last time, that this ordinance came before the City Council. I voted for it and it was approved, public accommodations law which requires that all public [27] places such as restaurants and bars and everything be opened to all people of all races; had one of the largest groups of black people that appeared before the City Council supporting that public accommodations ordinance, which I was pleased to vote for.

We've had black people appear before the City Council on zoning matters, sometimes in favor of zoning changes, sometimes opposing it; similar things that we had many black groups appear before City Council.

Q. Are you familiar with the Federal Model City Program? A. To a degree.

Q. Do you know where the target areas are? A. Target

areas, Desire Project around the Ninth Ward area and also in parts of my area that I presently represent which composes a part of the Second Ward and a part of the First Ward.

Q. In your district part of the Model City target area what is the racial makeup [28] of that area? A. It's predominantly black.

Q. Would you say it's 80-90 percent? A. It's hard for me to give you percentages. I'll say that it's overwhelming predominantly black.

Q. Have you supported any candidates running at large? A. For Councilman-at-large?

Q. Councilman-at-large. A. Usually when Councilmen-at-large are running I'm running myself, so I'm supporting myself, and we all run at the same time, and it's very difficult for me to endorse. Of course, if he's on the ticket with me then we're all in effect running together. But just to pick somebody out and endorse him publicly I can't remember ever doing it.

Q. Have you ever supported a black candidate? A. Yes, uh, huh.

Q. What candidate was that? A. Dutch (D-u-t-c-h) Morial.

Q. What office was he seeking? [29] A. I think Dutch at that time was running for the legislature I believe, State legislature. I'm not sure. It was either that or Juvenile Court Judge.

Q. Did you review the election results? A. Did I review them?

Q. Yes. A. I probably read them in the paper after the election.

Q. Was he successful? A. Yes.

Q. Did you notice any block voting by race? A. I've never had any interest in block voting and I've always tried to discourage it.

Q. Do you know if it exists? A. Yes, it does exist. I think it exists on the part of black people and also on the

MR. CLARENCE O. DUPUTY, City Councilman, City Hall 1300 Perdido Street, New Orleans, Louisiana 70112, a witness named in the above stipulation, being first duly sworn in the cause, testified on his oath as follows:

By Mr. Friends:

Q. State your name, please. A. Clarence O. Dupuy.

Q. And your address, Sir? A. My home address?

Q. Here is sufficient. [4] A. My address is City Hall.

Q. What is your occupation? A. I'm a member of the City Council and by profession I'm an attorney.

Q. What was your previous occupation? A. Previous to what?

Q. To City Council. A. I was an attorney.

Q. How long have you been on the City Council? A. I think I'm in my twelfth year now.

Q. You were elected three times. Is that correct? A. Yes.

Q. When did you first run for City Council? A. Let's see. It would be 1961 or '62. I think it was '62.

Q. Was that your first time running for public office? A. Yes.

Q. Approximately how much time do you spend in Council business? A. Whatever is needed. It varies depending upon what the issue and what business is before the City Council.

Q. On the average what would you say that would [5] be? A. It would be very difficult to average it out because sometimes it takes a lot of time and then other times business gets very slow. For instance around Budget hearings we're here everyday, and we work from morning until late in the evening. And if we have something particular before the Council that's going on we take a lot more time to prepare. You may be here everyday. You may be able to skip a few days at the end of it. It would be very difficult to average it out because it varies, fluctuates so much.

Q. And were you always a District Councilman? A. Yes.

Q. In what district is that? A. District C.

Q. Do you know the population of District C? A. Well the population before the redistricting was about 100,000 votes, people, 100,000 people. I had to pick up in the redistricting about 17 or 18,000 [6] more.

Q. Do you know the racial makeup of the district? A. No, I don't.

Q. Do you have an estimate? A. No. I don't even have an estimate.

Q. Do you know the number of registered voters in your district? A. No. I don't know the latest number. I can't remember.

Q. Do you know the number of registered voters before the redistricting? A. Well I was familiar with the amount of registered voters at the time we discussed redistricting, and when it was pending before the City Council.

Q. Do you recall what the figures were? A. No, I don't. Q. Do you have any idea what percentage of the registered voters are black? A. No, I don't.

Q. Calling your attention to the first redistricting plan, and referring to the plan that was adopted by the Council submitted to the Justice [7] Department I believe in '71, I don't recall the exact date, but there was one that was previously adopted. Do you recall what was your understanding as to the problem with that plan? A. Well I don't think my understanding was that first of all the districts were not really contiguous, and I think that was the biggest problem that stands out in my mind, the most serious problem.

Q. What was your understanding as to why the Justice Department objected to the plan? A. Well I haven't read the Justice Department's letter lately, but I read it originally, and I don't recall the contents of the letter, but I did familiarize myself with it when we received the letter, but I haven't read it in such a long time that I couldn't repeat to you what's in it.

to the voters at the same time? A. I think it would have caused mass confusion.

Q. In voting for to override the Mayor's veto isn't that what was contemplated? A. No, because if I remember correctly these plans went to the public separately on two different occasions. I think first the 11-man went to the voters and then the 9-member, if I remember correctly. No. I think maybe only the 11-man went to the voters. I tell you really I can't remember, but I think the 11-man plan went to the voters separately.

Q. You indicated that you had discussions with other councilmen concerning the second redistricting plan? A. Uh, huh.

Q. Did you also have discussions with the [35] Council's research staff? A. Yes.

Q. What were those discussions? A. It was about, generally about redistricting, what constitutes the guidelines and what's the best way to comply with them; just a general discussion about redistricting and what was the job that had to be done, many conversations, had many conversations together, many discussions.

Q. Were statistics available by race then? A. Yes, they were.

Q. Were registered voters by race also? A. Registered voters and also population.

Q. You stated that in your view block voting does exist in New Orleans? Is that correct? A. Yes. I think in the past it has existed in some elections.

Q. Do you know of any examples?

Mr. Stoner: When?

The Witness: When you say?

[36] By Mr. Friends:

Q. Within the past ten years. A. I can't remember any particular example of it, no.

Q. Has it occurred on any referendum elections at all during that period? A. I have no independent recollection of any referendum election where it occurred. It may have occurred in the first, when the first plan 11-man plan was submitted, but I don't have any independent recollection of it having occurred in that particular referendum or any other particular referendum. I remember that it has occurred at the time.

Q. In your view would it most likely occur when there's a black and white candidate? A. In my view, in my opinion that's probably the most likely time for it to occur.

Mr. Friends: I have no further questions.

By Mr. Halpin:

Q. Mr. Dupuy, is it correct that you never ran for any political office prior to [37] 1962, in 1962 elections for City Council? A. Right.

Q. How expensive is it to conduct a campaign for City Council from a district in New Orleans? A. That depends upon your opposition, how many opponents you have, how much activities your opponent is engaging in.

Q. Did you have a stiff opposition in 1962? A. Yes. In every election I've run in I've had what I consider to be stiff opposition.

Q. And in giving that stiff opposition about how much money do you have to spend? A. I can't remember precisely what I spent.

Q. Can you remember approximately? A. I'd have to take a guess. In the last election I was in it was approximately four years or more ago, and it would be difficult. It would be such a guess that I just wouldn't want to guess what I spent.

Q. Would you say it would be around 30,000? [38] A. I didn't spend $30,000 in my last election, no. I knew it wasn't that much.

Q. Did you run on a ticket in 1970? A. Yes. I ran on Fitzmorris's ticket in 1970.

part of white people, and I do not approve it. I think a man ought to be voted for based on his qualification for the office not his race.

Q. What is the purpose of tickets? A. I guess the biggest purpose of tickets, of [30] course, is to share the expenses of the election, which each candidate puts up a certain sum of money. They pool it to have as much public relations they possibly can. Another purpose of the ticket from our point of view is that I can be acceptable to a candidate for Mayor or some major office who I think is going to be successful and who stands for the same things that I stand for. I'd like to be on his ticket.

Q. To come back to the second redistricting plan now, would it be fair to say that you are mostly concerned with your district in terms of getting the plan drafted, how it belongs in your district? A. Well in this particular instance I had to look at it as a whole for the City. Whatever we had I look at it first how it affects my district and then also how it affects the entire City. But in approaching this redistricting plan we had to look at it not just [31] from the point of view of our individual districts but also from the entire City because the only way you can have a plan that divides the population equally is to look at it from the City as whole, and the only way that you can determine or make a decision as to the areas being contiguous.

Q. So from the point of view of the entire City rather than just your own district in this matter? A. In this matter which is presently pending before the courts it was not completely acceptable to me from a political point of view because the plan took away from me an area which I had previously run very, very strong politically, the Third Ward. Each of the cases that I've run for public office I have carried the Third Ward overwhemingly. I voted for a plan that took the Third Ward out of my district completely. So I didn't look at it just from my district itself. [32] I had to look at it as a whole to do the best thing for the people of New Orleans.

Q. Was making sure that councilmen in the remaining districts didn't consider running in the same district? A. I have never instructed the staff or anyone else to do that.

Q. Do you know if anyone on the staff did? A. I don't know of anyone that ever instructed the staff to do that.

Q. Did they review any plans councilmen may become councilmen in the same district? A. I think there were some informal plans that councilmen had pitted against each other in their districts, but it just so happens this plan which was submitted to me, the plan that was approved, the second redistricting plan, there was no necessity in putting councilmen in the same district with each other. It wasn't necessary to achieve a redistricting plan that in my opinion fully complies with the guidelines of the law.

[33] Q. Those guidelines don't follow natural boundaries one man one vote mandate? A. Yes. They follow one man one vote rule. It does in my opinion. I'm not, as I told you, completely happy about the plan from a political point of view having taken away from me strongest area that I had, the Third Ward. But I believe it's an equitable plan. I think it fully complies with the guidelines, and that's why I supported it even though it was not politically beneficial for me to do so.

Q. Would you discuss the location of the boundary line between District E and B, well Councilman Lambert? A. Councilman Lambert is in District B.

Q. Did you discuss the boundary lines between those two districts? A. Did I discuss it?

Q. Where the line would be drawn? A. I discussed it with everybody, not only with Mr. Lambert. I discussed it with all the members of the City Council .

[34] Q. Did you vote to override the Mayor's veto of the 9-member, Charter member? A. I believe I did if I remember correctly.

Q. In your view what would have happened if the 9-member amendment and 11-member amendment had went

Q. And also Fitzmorris's ticket in 1966? A. Yes, as I remember. As I recall I did.

Q. Is it generally less expensive when you run on tickets than if you're running comparatively by yourself? I mean is that the idea that you pool money? A. Yes. I think it's generally less expensive. Of course it depends on, you know it depends on how active the ticket is that you're on, and again it primarily depends on how many opponents and how much money they're spending against you.

Q. How did you raise money for a district campaign for Councilman? A. Well you ask your friends to assist you in helping you. You always have to put up a certain sum of money out of your own pocket.

Q. About what percent do you think, Sir, comes out of your own pocket? [39] A. Well that varies. If I remember correctly, I wouldn't be able to tell you percentage-wise, but I think most in the last election came out of my pocket if I remember correct.

Q. Do you conduct any fund-raising dinners or anything of that sort? A. No. No, I do not. I've never had a fund-raising dinner in my life.

Q. How large would you say the largest individual contribution given to you in your last campaign was? A. I can't remember what would be the largest one.

Q. Could you say approximately? A. I wouldn't want to approximate.

Q. In 1962 you indicated that you ran on a ticket headed by mayoralty candidate Comiskey. Were there any black candidates for councilman who were on that ticket? A. Not that I remember.

Q. How about in 1966 on the Fitzmorris ticket on which you ran, were there any black candidates? [40] A. On the Fitzmorris ticket?

Q. For City Councilmen on the Fitzmorris ticket. A. Not that I can remember.

Q. How about 1970? A. Not that I can remember. Of

course I have no control on who's on Mr. Fitzmorris's ticket or any other mayoralty candidate even if I'm on his ticket. That decision rests solely with the mayoralty candidate himself as to who he wants on his ticket. You understand that I'm sure.

Q. Do you recall in the three elections that you participated in and ultimately were elected whether any of the tickets headed by mayoralty candidates had blacks as councilmanic candidates on those tickets? A. Well there were black candidates for the City Council, but whether they were on the tickets or whose tickets they were on I don't remember. But there definitely were black candidats for the Council.

[41] Q. Did Moon Landrieu have a ticket in 1970? A. Yes.

Q. Were there any black candidates for City Council on that ticket? A. I don't remember whether there were or not. I was not on Mayor Landrieu's ticket in 1970.

Q. You served on the City Council your first time from 1962 until 1966. Is that correct? A. Yes, uh, huh.

Q. Do you recall during that period various sit-in demonstrations by black people in the City of New Orleans relative to obtaining service at lunch counters? A. I don't recall. What you mean, lunch counters in the downtown area?

Q. Yes. A. I don't remember precisely whether they were in that period of time, but there have been sit-down or demonstrations at lunch counters in the downtown area. It's one of the reasons why I voted for the public accommodations law.

[43] Q. What action did the City Council take during that period 1962 to '66 relative to service of blacks at lunch counters? A. Well I can't remember they had any demonstrations in 1966 or from what year?

Q. From 1962 until '66. A. Well I don't remember whether they had any demonstrations during that period of time. I know there have been demonstrations, but I don't know whether they were in that period of time, and I

don't remember what, if any, action the City Council took. The only action the City Council could take would be to legislate.

Q. But to your knowledge they didn't do that, did they? A. I don't remember whether we passed any legislation at that time or not.

Q. Do you recall that during that period the City Hall cafeteria refused to serve blacks? A. When I first got on the City Council no blacks were eating in the cafeteria. [44] I don't know whether it was result of them not being permitted to eat or not. But we did play a part, members of the City Council, at that time with the previous Mayor Schiro in opening up the cafeteria to all races, and that was done you know by conferences with the Mayor as I remember.

Q. Do you recall when Reverend Avery Alexander, a black leader, was arrested in the City Hall cafeteria for attempting to receive service? A. I remember that instance, but I don't remember when it was. Incidentally Reverend Alexander supported me prior to that incident, if it was in 1962, between 1962 and 1966, and supported me subsequent to that incident.

Q. Were you ever a member of an organization called Save Our Schools? A. No.

Q. You're not familiar with that organization? A. No. I'm not even familiar with it.

Q. Do you recall when the public schools in New Orleans were first desegregated? [45] A. I don't recall the dates.

Q. Did you take any public positions on that issue, the issue of the desegregation of the schools? A. I don't recall whether we took any public position at that time or not. But we have no jurisdiction whatsoever over the public schools in the City of New Orleans. It's a public school system, is under the School Board, the Orleans Parish School Board, whose members are elected, and it's an independent body from the City Government and from the City Council. And I might add they act very independently from the City Council.

Q. Would you say you followed essentially the same criteria in developing the first City Council plan as you did in adopting the Moreau plan? A. Yes. But I think in adopting the Moreau plan we were more familiar with it at that time than we were previously, and I think we hurriedly, too hurriedly, passed the first plan. As [46] I look back on it right now we acted too hastily in supporting that plan.

Q. Would you admit at that point that the first plan was in fact racially discriminatory? A. There was no intention. In supporting the first plan there was no intention to make it racially discriminatory, and I don't believe that it was racially discriminatory. I think what was wrong with the plan is that it was not the contiguous, and another thing that was primarily wrong with it was that it divided Algiers, which is the area across the river, into three separate districts, and I think that's wrong. I think Algiers should be under one district, and I think it was an error for us to do it, but it was not racially discriminatory, nor was it ever intended to be racially discriminatory.

Q. My question was, and you may have answered it, but this will clarify it. My question was, would you admit that it [47] was racially discriminatory in effect? A. No. I think what was wrong with it was what I previously said.

Q. Are you aware that jurisdiction under Section 5 of the Voting Rights Act, under which that plan was objected to by the United States Attorney General, extends only to the question of racial discrimination and redistricting? A. I don't recall that by number. Would you tell me what that decision says?

Q. That's Voting Rights Act under which the first plan was objected to. A. And what does it say, particular provision that you refer to?

Q. All right. Are you aware that the Justice Department, when considering submission of a voting change

such as the first City Council plan, is limited to considering only question of racial discrimination in determining whether to object or not to object to that plan? A. As I understand it, the primary consideration is whether it dilutes a minority [48] voting strength. Is that what you had reference to?

Q. Yes. I just wanted to get your appreciation of that. A. Uh, huh.

Q. And you would contend that the first plan did not dilute the black voting strength? A. I don't think the first plan diluted black voting strength. I think again the flaws in the first plan, one of the biggest flaws was that it did not provide for contiguous districts, and it wrongly divided Algiers into three sections. Should not have done that. Algiers as a whole should be in one, one district, and I think it was erroneous for the City Council including myself, to have approved a plan that divided Algiers into three separate parts.

Q. Does the splitting up of Algiers into three separate parts really have anything to do with dilution of the black voting strength? [49] A. It was not intended to and I don't believe that it does.

Q. Is it your appreciation that that was the concern of the Department of Justice in objecting to the first plan? A. If I remember correctly that was what they said in their letter.

Q. That they believed that was racial discrimination? A. I don't know whether they believed it. That was what they said in their letter.

Q. That they believed the splitting up of Algiers was racial discrimination? A. I think the whole plan diluted black voting strength. I think that's how they put it. I don't remember the precise words.

Q. You would say also that the second plan does not dilute black votes? A. Positively not.

Mr. Friends: OK. I have no other questions.

Mr. Stoner: I have no questions.

Deposition of John D. Lambert, Jr.,

(Excerpts)

October 3, 1973

[9] Q. Do you know the percentage of registered voters, black and white? A. No. I had gotten that information, let's see, maybe about a couple of years ago because we had requests—well, it was all, you know, getting all the information that we could relative to these redistricting things. I have the impression it's somewhere around between thirty-five and thirty-eight percent.

Q. Black registered voters? A. Black registered voters. I think that's about right.

Q. When did you get these figures? A. Well, let's see, when we first started redistricting, and we came up with some plans, Paisant had been asking us to [10] come and see him upstairs where, you know, his staff works, and I went and looked at them, and he had population figures, black population figures and white population figures on a map.

Q. Did anybody ask him to put them on the map, do you know? A. No, I don't know. I think he just did all of this in connection with preparing his plans, you know, making recommendations to the council.

Q. Do you know why he prepared registration figures by race? A. No, I don't know why he prepared registration figures, but, initially, he prepared population figures, only. That was the first thing we looked at. As a matter of fact, the map that you have in Court, the one you had on the board there was with the black dots and white dots, it was the first map that I had seen, you know, that had anything to do with designation of the races.

Q. When did the voter registration statistics become available? [11] A. Well, they became available about the same time we started getting requests from different groups that were interested in the involvement. I know that some blacks had called me up as to whether or not

they could get information from me relative as to what the statistics were, the whole gamut, the voter registration, everything, they wanted maps, voter registrations, they wanted black and white population figures, you know, and when I first went up and looked at the proposed plans that Mr. Paisant had at that particular time, and he had already had, as I recall, the population figures, at about that particular time I thought it might be important for him to get maybe some other figures, too, because people were asking me. As a matter of fact, I think Rev. Alexander was one of the people who called me at City Hall and wanted information, and I turned him over to Jim Paisant, told him he would give him anything he wanted as far as I was concerned.

Q. Did you ask Mr. Paisant or his staff to secure the registration figures? A. I was interested in having the information because I thought that that was going to be coming up, you know, at our hearings, yes. Between the time that the first plan was introduced or was being developed, let's say, and the time we went to our hearings on the first plan, I was interested in having voter registration figures for the whole City.

Q. Were they made available? A. Yes, I think they were made available.

Q. Were they used? A. To be perfectly honest, I didn't really worry about them. I don't know whether the other councilmen worried about them or not. The major concern was coming up with what we thought would be a valid, you know, acceptable plan, and we were looking more at population than we were of voter registration.

Q. Did you look at voter registration at all? A. Yes, but I'd say it didn't play any factor, [13] any serious factor.

Q. What context were they looked at and examined? A. More from an information viewpoint than anything else, that's all.

Q. What purpose did the information serve? A. Just to tell me, you know, what the voter registration was in my district.

Q. Why did you care about that? A. I was interested in insuring that if I accepted the plan that I like, you know, that, particularly, Philip Ciaccio and I, and Clarence Dupuy had prepared as far as our common boundaries were concerned that affected me, that I didn't create any dilution of the black voting structure in my district.

Q. What is your definition of dilution of black voting structure? A. I didn't want their voting strength to be less than what they had under the plan that I had gotten elected under.

Q. How about more? A. I didn't have any objection going more.

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[20] Q. For the record, Councilman, are there any black City Councilmen? A. No, sir.

Q. To your knowledge, have there ever been any black City Councilmen in New Orleans? A. No, sir. I don't know about the reconstruction days, but, you know—

Q. But in modern history there were none? A. No.

* * * * * * * * * *

[26] Q. What other factors or considerations, standards, did you use in analyzing the redistricting plans, both the first time and the second time? A. Well, the way I looked at the whole redistricting picture was that, number one, I didn't think we had to do a great injustice to the districts we presently [27] had. In other words, I didn't believe we had to scrap them and come up with an entirely new plan. Number two, I didn't believe it was mandatory for councilmen to run against each other. I didn't think that was a mandatory factor to come up, and that's what you would do if you would scrap all the plans unless you come up with something else, but more importantly, it was the positive factors that I didn't want to get involved with

any gerrymandering, so to speak, in order to create all white districts. I didn't want to dilute any population strength, realizing you have to do it to increase population strength in some areas, but I didn't want to get involved in that. The other factors that had come about that were of consideration to us, you have to understand that this is the first time we've gotten involved in redistricting, and we were learning what the guidelines were, you know, as we went along, and the compactness of [28] a district was a factor that we had given serious consideration to. Then we took a look at what I considered the guidelines that were established to a certain extent by the Fifth Circuit, the Senatorial District problem that we had here, you know, that was the first time I really took a look and studied their districts as opposed to that particular legislation. All of these played a factor in the determination.

Q. Why was it your opinion that you didn't need to scrap the old plan? A. Because I didn't feel redistricting required, you know, simply to scrap the districts you already have. My theory was, and I firmly believe it, that if you can come up and satisfy all the other requirements of the Voting Rights Act by simply an adjustment of the boundaries that you could do that.

Q. What are the requirements of the Voting Rights Act? A. Compactness of district, no dilution of the black, you know, or any population [29] strength, one man/on vote type concept.

Q. You, also, indicated one of the factors was you believe that there was no need for incumbents to have to run against each other? A. That sort of ties in with the idea of scrapping the entire concept, you know. People were coming up with plans that said, you know, just scrap the entire plan, let's go ahead with a new one. Steimel already had done that in the House of Representatives race and tried to do it in the Senate race, and the Fifth Circuit

didn't approve of it, but I don't necessarily believe we had to if you could meet all the other requirements.

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[50] Q. Were you familiar with the Steimel House of Representative plan— A. Yes, sir.

Q. —for the Parish of Orleans? A. Yes, I saw maps and so forth.

Q. In your judgment could it have been used as a basis for redistricting the City councilmen's seats? A. I guess anything could have been used as a basis.

[51] Q. How many House of Representative members are there from Orleans Parish, do you know? A. I think there are twelve.

Q. Do you know how many of them are black? A. Four.

Q. Do you know how many black representatives [52] there were from Orleans Parish four years ago? A. One.

Q. How many state senators are black, if any? A. None.

Q. Do you recall reading any publications as to how many black senators there might be if the Steimel senatorial plan had not been reversed by the Fifth Circuit? A. No.

Q. Were the public hearings held by the City Council on the question of redistricting? A. Yes.

Q. When were those held? A. Well, before the adoption of the first plan and before the adoption of the second plan.

Q. Did the persons who attended those meetings speak on the question of redistricting? A. Yes.

Q. What kinds of persons, what kinds of organizations? A. We had people from all walks. Particularly for the first plan, we had a great number of people from Algiers. I think [53] the first plan originally proposed had split Algiers in two, if I'm correct. They didn't think Algiers should be split up. A lot of blacks spoke, black organizations came and spoke.

Q. Was there a consensus of what the blacks wanted? A. The blacks, yes, the consensus was they represented

forty-eight per cent of the population, and they felt they should have an opportunity to get a black in the City Council.

Q. Did they advocate? A. They wanted districts created, you know, to reflect that.

Q. What types of districts did they want created? A. Black districts, or they did not want any dilution of any of their voting strength or population strength.

Q. Did they speak on the question of increasing the size of the City Council? A. Yes, a lot of them spoke to increase the size of the City Council while we were having hearings on the redistrictings, only by vote, you know, by vote of the [54] population

Q. What kind of increase of the City Council did the people speak of? A. Nine and eleven.

Q. Is that at-large or single member districts or what kind of plan? A. There were several plans that were proposed, I don't recall whether or not they were all proposed at the hearing, you know. We received a lot of this in mails and things like that, and by letters which were filed and so forth. By and large what they wanted, a great number of them wanted all districts and no at-large.

Q. Do you know why? A. Because they felt they could get, you know, smaller districts that way, and allow, I guess, more blacks to be elected to the City Council.

Q. Do you know what their antipathy was towards at-large? A. They did not favor at-large candidates.

Q. Do you know why? A. Because they felt they couldn't elect any- [55] body at-large, I presume.

Q. Do you share that feeling? A. No, I don't think so. I think they have an opportunity to elect at-large candidates.

Q. What do you base that judgment on? A. Recent attitude of the population, you know, some of the more recent elections.

Q. For instance? A. Well, Judge Morial's election. He ran against a strong white and got elected to the Court of Appeals. Israel Augustine ran for re-election against a real strong white attorney who was very popular and got elected.

Q. Elected to what? A. To the Criminal District bench, at-large. Dr. Spears got elected to School Board, against white competition.

Q. At-large? A. Yes.

Q. How many members of the School Board are there? A. I think there are seven or nine.

Q. How many members of the Criminal Court are [56] there, judges of the Criminal Court? A. They go from Section A through G or H.

Q. How many judges of the Court of Appeals are there that Judge Morial was elected to? A. I think there are five or six in the Fourth Circuit.

Q. Was any ordinance proposed that would have created an eleven single member district plan? A. No, I don't think. The ordinance doesn't create it, the ordinance only submits it to be approved, you know, by a voter referendum.

Q. Was any ordinance proposed that would have created a referendum electing an eleven member district plan? A. I don't think so.

Q. What about a nine member district plan? A. Yes, nine member district plan was.

Q. Nine single member districts? A. Nine districts and two at-large.

Q. I see. Who introduced that? A. I think Councilman Sapir introduced the eleven.

Q. When you say eleven, you're talking about nine single members and two at-large? [57] A. Yes. I think I introduced it along with him, the nine member plan, I'm not too sure.

Q. That's seven districts, two at-large? A. Yes. There were three sets introduced. Judge Fedoroff ruled that two of the ordinances could not be voted on at a Democratic

primary election, at the general election, so, then, we went back to the drawing board again and came up with another set of ordinances. The nine members, that's seven and wo was vetoed by the Mayor. The result was that only the eleven men plan, that is nine and two went to the people for a vote in a general election. That was rejected. Then, subsequently, we went back again and passed a nine member plan which would be seven and two, and that went to the population, to the people, and that was rejected. Then we came back and went to work on our redistricting ordinance, the results of which are now in litigation.

Q. Did any councilman initiate an ordinance going into the question of a nine single [58] member district plan or eleven? A. Single member districts? Not that I know of.

Q. Did persons— A. I don't recall.

Q. Did persons attending the public meetings held on the question of redistricting urge such a position? A. Some did, yes. I think it might have been Rev. Alexander or maybe A. L. Davis.

Q. Were they black? A. Yes. He had proposed an eleven man plan, one at-large, I think that was the plan he had come up with.

Q. Did any councilman put that in ordinance form? A. No, sir.

Q. Do you know why not? A. No, I can't speak as to why the rest of them didn't. As to the way I felt, I sort of felt that the two at-large candidates or even one at-large, but some at-large influence was a necessary thing on the Council because then he depicts the attitude of the entire City on different projects rather than just [59] a parochial attitude as to what I might want for my district, you see.

Q. So the— A. It's sort of a balancing. The best type of balance you can come up with short of the congressional type set-up with a five councilman-type legislature. That was the philosophy when it was first developed.

Q. When was it first developed? A. The commission developed the charter back in the early '50's.

Q. So, it's a twenty year old philosophy? A. Yes. I think it is, you know, relatively good thinking.

Q. There were ordinances calling for referendum elections on a nine/two and seven/two plan? A. Yes, sir.

Q. They were both adopted by the City Council? A. Both ordinances were adopted, but the referendum was defeated.

Q. At the time of the passing of those two ordinances did they pass the same day, do you recall? [60] A. The first two did, and then Judge Fedoroff threw them out. The second two did, and then they may have vetoed one, and then the third one was by itself.

Q. At the time the two were passed prior to the Mayor's vetoing of one, was there any discussion in the City Council among the City councilmen as to what the impact would be if both measures went on the ballot and both measures were adopted, radified by the people? A. Yes, that was a problem that we had discussed on the Council Board. The only consideration, the major consideration I had in my mind relative to both of them going to the people at the same time and letting them make a choice, we would have to have them understand what they were voting for, you might have to have some way of explanation to make sure they know they can go in and vote for both of them, then the problem came out what if both passed, you see, and I think the City—I don't know what the position the City attorney had, I [61] think he said the eleven member plan expansion over the nine members would take preference, but I'm not sure about that, you'll have to look at his files if you want to know that, but it was an opportunity to get it underway because I knew we were running under a short fuse. Then after we passed them both the Mayor vetoed them, we talked—I talked to the Mayor, I talked to the other members of the Council and although I voted to put both of them on the ballot at the same time, when we went to override the Mayor's veto, I wouldn't override it, I let the eleven go.

Q. Do you know why he vetoed it? A. Because he didn't want both on the ballot at the same time.

Q. Do you know why? A. He didn't want any confusion. He didn't want the people to be confused, and he feared maybe it wouldn't have an equitable chance of passing. You have to understand, we were asked first to put the [62] nine members on, you know, and that's what we did.

Q. As asked by whom? A. By members of the black community.

Q. Who? A. Well, Bob Collins came in and talked to me. As a matter of fact, the Mayor was the one who first mentioned expansion of nine, seven and two, I think it was at the meeting downstairs, that was the first one that was introduced. Then the blacks proposed to us an increase to eleven, so, we said, well, they were getting petitions together on that, and if they would have gotten ten thousand signatures they would have gone on the ballot at the same time, you know, so, we didn't put them through the trouble of getting ten thousand signatures when, obviously, a sizable portion of the population wanted to have it go on the ballot, you know, so—

Q. Did you believe a sizable portion of the population wanted the Council increased [63] to eleven single members or nine single members? A. No, I didn't think that the sizable portion of the population wanted that.

Q. In your judgment had the measures to increase the City Council to nine/two or seven/two gone to the people at the same time, wouldn't that have resulted in confusion? A. Well, it all depends on how you handled the public relations, you know, in explaining to them what was involved. After we passed it and we kicked it around, and the Mayor vetoed it, it was my philosophy that I knew we were going to come back with the nine men plan for the eleven man plan failed, I just knew that was going to be reintroduced, you know, that would be put on the ballot, so, I said we would just have to delay longer, that's all, and concede to the Mayor's veto.

Q. Isn't it true the ordinance calling for the nine/two and seven/two plan were proposed to be put on the ballot at [64] the same time in an attempt to dilute and split the votes of those persons, that part of the population that favored expansion of the City Council? A. No, because we had put the nine/two plan in first. You see, we had already put in the seven/two. The seven/two was introduced first, and then when I said before about the same time, they were passed the same time, but they weren't introduced the same time, we would have gone ahead with that.

Q. They would have gone on the ballot at the same time? A. It would have been on the ballot all by itself if nobody had come in and said, you know, we don't want the nine/two. One segment of the black community had come come in and asked us for a nine/two and asked the Mayor for a nine/two—I mean a seven/two, I'm sorry, that's what we, originally, spoke about, you see, and we put that ordinance in. Then another group wanted eleven, so, we put that ordinance in, you see. [65] It wasn't geared for the purpose of trying to defeat them, it was going to require an educational process, you know, to insure the voting public knew what they were voting on and the result might have been that, and that's why the Mayor vetoed it and that's why I wouldn't override his veto.

Q. At the time of adopting those ordinances did the City Council appropriate any money for the effort of public relations that you spoke about to be necessary? A. No, no. It would have to be through the news media, and editorial processes, and things like that, you know, sort of free advertisement.

Q. The question of expansion of the City Council to eleven members, nine/two, nine single member districts, two at-large, that went to the people in November of last year, is that correct? A. November of '72, that's right, that was, I think, the congressional elections.

Q. That measure was defeated by the people? A. Defeated, yes.

[66] Q. Did you speak in favor of that proposal? A. You mean speak on the Council floor for its adoption? No.

Q. Did any other Council member, to your knowledge, speak publically in favor of the adoption ratification? A. I was never asked to speak for it, either.

Q. Did you ever volunteer to speak for it? A. No.

Q. Were you aware of any organizational efforts on behalf of the passage of that ordinance? A. No, I really didn't see any organizational work behind it, you know, no one approached me, I didn't receive any information in the mail, I didn't receive any organizational work. I knew there were some organizations that were interested in getting it passed, but I didn't really see any P.R. work on it.

Q. Did you see any advertisements? A. It surprised me a little bit, I think there was—no, I didn't see any until I saw some advertisement or something in the papers, that's the first time I [67] saw it is when there was some evidence in the present litigation.

Q. In the complaint filed by the District Court for the District of Columbia one of the allegations is that there was considerable community efforts directed at this election, some organizations supported it, are you familiar with that allegation? A. Yes, sir, that's right.

Q. Do you know any organizations that supported it? A. I knew the black organizations supported it, you know, as I said they had, but I didn't find that as active of a movement, you know, to do a lot of P. R. work in relation to the community at large. Now, maybe the P. R. work was only directed in the black communities, I don't know, but as I said I didn't notice it predominantly in my district. There was some work being done uptown, I'm pretty sure about that.

Q. Is uptown black or white, do you know? A. It's sort of everything, but it was in the [68] black communities

uptown, I'm sure there was some sort of P. R. work being done. This is a lot of speculation as to what happens uptown. I've got enough problems in my district.

Q. Was the measure supported by black organizations than by white organizations? A. I imagine—let me say this, it was supported by black organizations.

Q. Do you know any white organizations that supported it? A. I don't know of any white organizations that took any stand one way or the other.

Q. Do you know of any white politicians that spoke out in favor of it? A. No, except for, maybe, Councilman Sapir, he may have, but I've never heard, you know, heard him speak.

Q. Subsequently, the question of increasing the size of the City Council to nine members, seven districts, two at-large, went to the people? A. Yes.

Q. Are you familiar with any organizational efforts to secure passage or ratifica- [69] tion of that ordinance? A. My answer to that question would be about the same as to the other one.

Q. Do you know of any white politician who spoke in favor at that time of expanding the City Council? A. No one except for the possibility of Councilman Sapir and the Mayor, I think.

Q. Do you know of any white organizations that supported that? A. No. I don't know of any white organizations that spoke for or against it.

Q. Did you take a position on it? A. Except for passing it on the Council floor, no.

Q. Were you in favor of the ratification of that to nine members? A. I could have gone with nine members, I said that. I didn't necessarily have any love for expanding it to eleven, one way or the other, but expanding the council to nine was a very distinct possibility for me, you know, and anybody who asked me that I told them that.

Q. Did people ask you that? [70] A. Well, just in conversation, you know.

Q. Any newspaper reporters ever ask you that? A. No.

Q. TV reporters? A. No. The only reason why that was, I find in looking at other City governments where the Council gets larger and larger and larger, the strength of the Mayor gets larger and larger and larger, and I'm not too sure, there should be a certain balance there, and I told them that, not that I had any words about him as a Mayor, but I just felt that, you know, expanding the Council too large gives too much strength to the Mayor.

Q. That measure was defeated as well? A. Both of them, yes.

Q. It was a closer election than the first one, was it not? A. I don't recall the figures. If you tell me when you read them they were closer, I could buy that. I presume they were, but I really don't recall.

Q. Would it be your observation that those [71] measures were supported by the black community and not supported by the white community? A. Well, it would be my observation that the measures were supported by the black community. I don't think the white community campaigned actively for or against it. I guess it would be fair to say the white organizations didn't campaign for it, but I don't recall them campaigning actively against it.

Q. How about the votes, would you have an observation as to how your voting went along those measures? A. I didn't look at the voting statistics to see how it was. I was a little bit disappointed in one area—no, I can't even say that, I didn't look at the votes, that is to analyze them, sit down and analyze them.

* * * * * * * * * *

[81] Q. Prior to your election to the City Council you indicated that you ran for the State Legislature? A. I ran, yes.

Q. In what year was that, approximately? A. I believe that was in '69. It was the summer of '69. The election was August or something like that, the election was in August and I lost.

Q. Who did you lose to in that election? [82] A. I ran in the field of nine and I came in third. Ben Bagert came in second, and Charles Elloie came in first, in the first primary.

Q. Charles Elloie is black, is he not? A. Yes.

Q. He came in first in the first primary? A. Yes.

Q. In the second primary what happened between Mr. Elloie, the black candidate, and the white opponent? A. Mr. Bagert won.

Q. Is it true in Louisiana that there is a majority vote required to win in the run-off primary? A. Oh, yes, you're talking about if two candidates run-off?

Q. Right. A. Sure.

Q. That's the purpose of the run-off, so that the majority of the voters must vote for the winning candidate? A. Well, what happens in the run-off election, if nobody gets a majority in the first primary, normally, the first and second [83] candidates run off in the second primary. I think that happens in most states.

Q. Were you active in Democratic Party politics prior to your running for political office? A. No.

Q. Are you a Democrat? A. Yes.

Q. Was there any general election in the contest for the legislative seat between Mr. Bagert and Mr. Elloie? A. Was there any what?

Q. General election. A. You mean was there a Republican or a candidate from another party other than the Democratic Party?

Q. Yes. A. No, not that I recall. I'm pretty sure there wasn't.

Q. Generally, in New Orleans winning the Democratic Party primary is comparable to winning an election in New Orleans? A. In most instances, yes.

Q. The Republican Party is very small? [84] A. It's just recently they started to place people in the various, you know, races.

Q. Are there any Republicans presently holding public office within the City of New Orleans? A. Not unless you can count Treen, I think he may take in part of the City.

Q. He's the United States Congressman primarily elected from Jefferson Parish, is that correct? A. Primarily from Jefferson, and then down in Lafourche Parish, Lafourche, Jefferson, and I think he takes in part of New Orleans, but I'm not too sure. I'm not too sure about that.

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UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

Civil Action No. 1495-73

PETER H. BEER, ET AL., Members of the Council of The City of New Orleans, Acting for and on Behalf of The City of New Orleans, *Plaintiffs*

v.

UNITED STATES OF AMERICA and ELLIOT L. RICHARDSON, Attorney General of the United States, Individually and in his Official Capacity, *Defendants*

Deposition of Jonathan A. Eckert

(Excerpts)

August 3, 1973

[63] Q. Did you ever start a district that started out in New Orleans East and come that way and along the lake front? [64] A. Yes, sir.

Q. Whereabouts did you end up? A. Canal Boulevard.

Q. And how many incumbent City Councilmen were in that district? A. Three.

Q. And how many of those were District Councilmen? A. Two.

Q. And what did you do with the balance in that concept? And this is a concept we're talking about, is it not? A. Uh-huh.

Q. What did you do with the balance of the lake front over to the Jefferson Parish line? A. That was combined with the district, which is essentially the same as the N.A.A.C.P. Plan.

Q. And wouldn't that necessarily have placed two or more incumbents in that district? A. Yes.

Q. How many did it place in that district? A. Two.

[65] Q. And were these District Councilmen? A. I'm sorry, three Councilmen.

Q. How many of them were District Councilmen? A. Two.

Q. Was that plan or concept worked down to a plan stage? A. Yes, sir.

Q. And was it submitted to the Councilmen? A. It was submitted to a Councilman who had requested it.

Q. And which Councilman was that? A. Councilman Sapir.

Q. And what did he do with that, do you know? A. He still has it.

Q. And when was this plan drafted? A. After the letter was submitted by the Justice Department rejecting the second plan.

Q. What did that plan do with Councilman Sapir's District B? A. It remained the same as that in the N.A.A.C.P. Plan.

Q. Did you consider in drawing concepts and plans the traditional and historical community of interest of neighborhoods [66] in the city? A. To the extent that it followed other factors which we indicated we considered of significance, and that would be geographical boundaries, et cetera.

Q. Do you believe there to exist a community of interest among the residents of Algiers? A. Yes, sir.

Q. What is that interest? A. Much of the Algiers area is similar in its economic patterns. They have similar problems with regards to transportation issues. I—I think essentially those would be my—

Q. Levee construction? A. Possibly, yeah. They might have the same interest insofar as levee construction as people who lived elsewhere along the river.

Q. Would you consider that the people on the lake front have community of interest? A. Yes, sir.

Q. What would that community of interest be? A. Again, I believe the similar socio-economic [67] patterns evidenced.

Q. Any other interests? A. I would say certainly the one I mentioned would be the main one that I sense in my mind.

Q. How about transportation? A. I don't think transportation is of such a concern with that—this area of the city—in other words, east bank— as it is on the west bank.

Q. The city is divided into how many wards? A. Seventeen.

Q. Which ward do you live in? A. Presently, Thirteenth Ward.

Q. Do people in New Orleans identify by wards? A. To a certain extent.

Q. Do they also identify by neighborhoods? A. Yes, sir.

Q. Which would you say they identify more with, if you have an opinion on that? A. Well, if you asked someone where they lived?

Q. Right. Would they be more inclined to say in the Garden District or the Thirteenth Ward? A. They would probably say Garden District, [68] Uptown, French Quarter; they might say Lower Ninth; they might say New Orleans East; they might say Ninth Ward.

Q. Is the Ninth Ward the ward that's identified with the Comiskeys? A. No, sir.

Q. Which Ward is that? A. To my knowledge, it was the Third Ward.

(Discussion off the record.)

Q. Are you familiar with the plan proposed by the Republican Party? A. Yes, sir.

Q. And did you draw that plan out? Have you run the statistics on that plan? A. Yes, sir. We made a check on one district.

Q. And why did you do that? A. We wanted to determine whether or not a black voting majority had been achieved in one of the districts they created.

Q. And had it been? A. Yes, sir.

Q. Did they report that it had been? Did you confirm their figures? A. I don't recall whether—frankly, I don't recall whether or not they included [69] voting statistics in the plan. We checked it out.

Q. Do you believe their population figures to be accurate? A. Substantially. Maybe a precinct here, a precinct there.

Q. When did you do this? A. Shortly after the Republican Plan had been introduced.

Q. This was before the second plan was sent to the Attorney General? A. Yes, sir.

Q. And before the second plan was adopted by the City Council? A. Yes, sir.

Q. Did that plan adhere to traditional ward boundaries? A. Essentially, no.

Q. What impact did that plan have on incumbent City Councilmen? A. I believe it possibly might have placed two incumbent Councilmen in the same district.

Q. Did you prepare that plan for submission to the City Council? [70] A. No, sir.

Q. Did you ever have a request to do so? A. No, sir.

Q. Do you know whether that plan was studied by the City Councilmen? A. I assume it was studied or I—you know, it's hard to say whether or not it was studied.

Q. Do you know what the Council's reaction to that plan was? A. At the public hearing, there was some—some question about the fact that Algiers had been placed with, I believe, the lake front area of New Orleans and there had been no channel—let's see what the word I'm looking for—at any rate, there wasn't any part of the city extending down to Algiers to provide some, you know, continuity. In essence, the district that had been created was one whereby Algiers sort of jumped over another district and was placed in—in with the lake front area as had been done with Algiers and the uptown area in the [71] present plan. There had been some discussion of that.

Q. In the present redistricting plan, Algiers jumps the river and goes up the river? A. Uh-huh.

Mr. Treese: Wait a minute. That's a little confusing. You mean the present system as it is existing right now?

The Witness: As it is existing right now, you have Algiers—

Mr. Treese: Right.

The Witness: —and you go across the river, of course, and you have a District B and then you go back to District—you know, it's kind of like playing checkers or leap frog or whatever. But the same thing, the same effect, was produced in the Republican Plan.

Q. In the first plan that was submitted to the Attorney General, Algiers was split into three other districts, is that correct? [72] A. Yes.

Q. Non-contiguous districts, is that correct? A. Yes, to the extent that Algiers really can't be contiguous per se with any other district.

Q. It has to at least go across the river. A. Yes.

Q. Do you recall any other comments directed at the plan proposed by the Republicans? A. There was some reference, I believe, to the fact that—I believe the Republicans, whoever it was that was present—I don't remember their names—had indicated that there would be some

problem in anyone who lived along the river or having a part of a district along the river representing feelings of people in Algiers. Councilman Dupuy took exception to that and said that his district extended to the river and that he had always been an advocate of a new bridge. I read some sort of comments in the newspaper by Councilman Sapir saying that he didn't think neighborhood interests were truly [73] served in the Republican Plan. I didn't hear him say that, you know, I just read it in the newspaper.

Q. Did the Republican Plan do violence to the maintenance of precinct integrity? A. Well, I noticed one precinct seemed to be split, but, no, I don't think it did violence to the precincts.

Deposition of James N. Pezant

(Excerpts)

August 3, 1973

* * * * * * * * * * *

[83] Q. And what difference would it make to becoming an ordinance whether or not two or more incumbent Councilmen were in the same district? A. Well, sir, if we set out and placed combined Councilmen in the same district, then it appears to me it would be—receive less acceptance among the members of the City Council.

Q. Why? A. I don't think anybody wants to—I don't [84] think any incumbent officeholder wants to run against another incumbent officeholder if it can be done otherwise.

Q. Did any Councilman ever tell you that? A. I have to say some Councilmen expressed preference not to—not to have this situation, but I can't say that any of them ordered me not to do this.

[85] Q. In the seven to nine conceptual plans that you drafted very early in this scheme of events, did you in

those plans seek to avoid placing two or more incumbent Councilmen in the same district?

Mr. Stoner: I object to the use of the word scheme.

Mr. Shurtliff: [86] Scheme of things; scheme of things of the reapportionment, the whole scenario of reapportionment.

Mr. Stoner: I still object to the word scheme.

Mr. Shurtliff: I'll rephrase the question, Counsel. It's not pertinent to my——

Mr. Stoner: It's implying there's something sub rosa here, and I don't think there's any testimony——

Mr. Shurtliff: There's more than one definition of the word scheme, and I meant nothing in denigration of the process. I meant it as a scheme of events, I did not mean——

Mr. Stoner: What you mean is a series of events.

Mr. Shurtliff: A series of events. I meant nothing in derogation of the City Council or this man.

[87] Mr. Stoner: I suggest we use the word series of events.

Q. Did you in drafting those conceptual plans seek to avoid placing two or more incumbent Councilmen in the same district? A. Yes, we did.

Q. And did any of those seven plans place two or more incumbent Councilmen in the same district? A. To the best of my knowledge, they did not.

Q. And in drawing these conceptual plans, did you dot the maps with the residences of incumbent City Councilmen? A. I don't know if we dotted the maps, but we were aware of the residences of the five—seven City Councilmen, yes.

Q. After the third round census material became available and you focused more particularly to a plan that would subsequently become an ordinance, did any of the plans drawn at that time place two or more incumbent Councilmen in the same district? [88] A. Are you referring to the first——

Q. The first. A. —ordinance? To the best of my knowledge, they did not.

Q. And did you dot those maps of those proposed districts with the residences of incumbent City Councilmen? A. Dot those maps. The map of the ordinance that we prepared, which Councilman—the map that was associated with the ordinance that we prepared for Councilman Moreau that he introduced as an ordinance?

Q. And the other maps illustrating other proposals that were given to Councilman Moreau at that time or considered by Councilman Moreau and the other Councilmen at that time time. A. Did we dot each of those maps with the residences of the City Councilmen?

Q. Right. A. I don't recall that we did because we didn't have to. We knew the residences of the—we the staff knew the residences of the City Councilmen.

[89] Q. Let me see if we can shorten this. Have you at any time dotted maps of proposed redistrictings with the residences of City Councilmen? A. Yes, sir. I believe we dotted one office map and maybe more than one, one office map with the residences of the——

Q. But generally you did not other than—— A. I didn't dot all the other maps, no, sir.

Q. I see. Now, the first plan was submitted to the Attorney General and an objection was interposed. A. Uh-huh.

Q. We then come to the second—— A. Ordinance.

Q. —ordinance. And was it between the time that the first plan was submitted and objected to or after that that the N.A.A.C.P. submitted a plan? A. The N.A.A.C.P. submitted their proposed redistricting plan at the first—at the public hearings associated with the first ordinance of Councilman Moreau.

Q. And—— A. I don't recall that organization appeared at [90] the second series of hearings, and we had this—we took this proposed redistricting plan under serious consideration.

Q. At what time? A. After it was submitted.

Q. The first time? A. Yes, sir, from then on.

Q. And did you run the population statistics for that plan? A. Yes, sir, because as the plan was submitted, it was a little tiny blue line—I guess mimeograph or multilith—and we put it on a big map. We made copies available to—we ran the population and the voter registration figures of the N.A.A.C.P. Plan and we gave copies to various interested parties, including your New Orleans City Council.

Q. And that plan was also considered the second time? A. Yes, sir. It was trans—that plan was transmitted by my staff to Councilman Moreau as one of four alternate plans for his consideration.

[91] Q. The second time? A. Yes, sir.

Q. And do you have copies of the other two plans—— A. Yes, sir.

Q. —that you transmitted to his office? A. Yes, sir. I think I referred to them earlier. I believe those were the plastic overlays that would be used with a standard city map.

Q. So there were four plans submitted to Councilman Moreau? A. The second time around.

Q. The second time. One of which was the—— A. N.A.A.C.P.

Q. —what is know as the N.A.A.C.P. Plan? A. Yes.

Q. Did the N.A.A.C.P. Plan place two or more incumbent Councilmen in one district? A. Yes, it did.

Q. And do you know how many? A. It placed two Councilmen in one district, the incumbent Councilmen of Districts C and D.

Q. And are those persons, to your knowledge, [92] District Councilmen or at-large Councilmen? A. Those are District Councilmen.

Q. Did either of the other two plans submitted to Councilman Moreau at that time place two or more incumbent Councilmen in the same district? A. To the best of my knowledge, one other plan, at least one other plan, placed two incumbent Councilmen in one district. But Mr. Eckert can answer that specifically.

Q. You don't know which district and how many? A. I don't know which districts they were. I'm very familiar with the N.A.A.C.P. Plan and I'm very familiar with the one that was passed. I don't have——

Q. Did you discuss the N.A.A.C.P. Plan with various Councilmen at any time? A. Yes, sir.

Q. Do you know what their reaction to that plan was? A. I—I think that would be speculation on my part, sir.

Q. Did any Councilman ever tell you what he [93] thought was wrong with that plan? A. What was wrong with it? No, not—no Councilman told me what was wrong with the plan.

Q. Did Councilman Moreau ever tell you what was wrong with that plan? A. To the —Councilman Moreau——

Mr. Treese: Are you using this term did they tell you what was wrong with it—would you please define for us what you mean when you—it assumes that the witness knows what was wrong with it. What was wrong with the plan as you mean it?

Mr. Stoner: Well, as I understand the testimony, there were four plans submitted. Now, what you're really saying is there's apparently something wrong with three of the plans, is that correct?

Mr. Shurtliff: Well, I asked the question and I'll rephrase it.

[94] Mr. Treese: All right.

Q. Did Councilman Moreau ever indicate to you why he didn't introduce the N.A.A.C.P. Plan? A. Did he indicate to me why he did not? I gave Councilman—we gave Councilman Moreau four plans that we thought again had a fairly good chance of—a chance of being given affirmative consideration by the Justice Department or the Attorney General's Office, and he selected the one that became an ordinance. I don't recall whether he expressed anything wrong with any of the other three plans.

Q. Did he indicate why he selected the plan that he did over the others? A. To the best of my knowledge, Councilman Moreau thought that this plan had a better chance

of passing the City Council and still getting favorable consideration by the Justice Department.

Q. And did he indicate why he thought it had a better chance of passing and becoming [95] an ordinance? A. Well, you're asking me to say what was in Councilman Moreau's mind.

Mr. Stoner: No, I object to this. He has not asked you what was in Councilman Moreau's mind.

The Witness: Okay.

Mr. Stoner: He just asked you one question, did he express an opinion to you. It's a yes or no answer, it would seem to me.

The Witness: All right.

A. Yes, he expressed an opinion.

Q. And what was his opinion? A. That he would prefer not to place two incumbent Councilmen in one district.

Deposition of Johnny Jackson, Jr.

(Excerpts)

October 2, 1973

[35] Q. Mr. Jackson, SOUL, is that a black organization? A. Right.

Q. And the purpose of that organization was what? A. Originally, it was for to elect black candidates and to participate in the political dates and to participate in the political campaigns. I no longer am a member of that organization.

Q. Do you know what its purpose is now? A. It's to participate in political campaigns.

Q. And is it still a black organization? A. Yes.

Q. Would you address the court reporter? A. Yes, it's still a black organization.

Q. Mr. Jackson, you stated that you attended City Council meetings and spoke about the question of expanding the City Council to eleven members? A. Right.

[36] Q. And that was eleven single member districts? A. Right.

Q. To your knowledge did any councilman support that position? A. If there was one councilman who did, it probably was Councilman Sapir, but I don't know if he was talking about eleven separate districts or an eleven member council which would include maybe nine separate council districts and two councilmen at large.

Q. Ws any ordinance proposed that would have created an eleven single member districting—— A. No, originally there wasn't an ordinance at first that was going to have an eleven member district, but because of the black community trying to push a referendum to enforce them to put an eleven member plan to vote——

Q. Did that question ever go to the voters, an eleven single member plan? A. No.

Q. You ran for the legislature one time? A. Right, it's a new district.

[37] Q. Do you know who formed that district, who created that district? A. My understanding is that that was created from a special master appointed by the courts, I think, Ed Steimel.

Q. How long did you campaign? A. For that district?

Q. Yes. A. I must have campaigned three or four months for it.

Q. How did you campaign? A. Well, what I did is basically I want to, you know, people in the district and attempted to get their support. We had suppers and parties to raise money and to pay for the campaign expenses and I was someone well known in that area and I got the support of one of the political organizations at that time which I was in disagreement with, but I got the support of SOUL and the Ninth Ward Voters League.

Q. Is the Ninth Ward Voters League a black organization? A. Right.

[38] Q. Did you go campaigning door to door? A. To some degree, yes.

Q. Did you go door to door in the white neighborhoods? A. Yes, I did.

Q. Did you go door to door in the black neighborhoods? A. Yes.

Q. How many candidates were there for that seat? A. Thr were originally two blacks, myself and a Mrs. Gaines in the run-off; general election, there was a republican.

Q. Was the republican—— A. The republican was white.

Q. There were just two candidates in the primary election? A. As I recall, yes.

Q. And both black? A. Right.

Q. What percentage of the vote did you receive in the general election? A. As I recall, I received the black community, something like seventy-five percent of the vote and in the white community, I think it was closer than that in most [39] white precincts. I lost some precincts in the white community. I think about half and half——

Mr. Treese: Did you say half and half?

The Witness: Yes.

A. The problem is he was republican. If it was a democrat, I probably would have lost. I would have lost by—I would have split, I would have lost by a greater margin.

By Mr. Shurtliff:

Q. In what areas, in the white areas? A. Yes, predominantly the Eighth Ward.

Q. You spoke earlier about tickets. A. Yes.

Q. Who puts tickets together? A. Most often times the mayor does and political organizations.

Q. Do you have tickets for offices other than City Council and mayor? A. Oh, yes, right. If there's an election where you have—all the offices are generally placed up for election are placed on the [40] ticket.

Q. Does SOUL put tickets together? A. Yes, they put tickets together.

Q. And candidates for mayor put tickets together? A. Oh, yes.

Q. What other organizations put tickets together? A. Your various people who are running for office, respective

councilmen, incumbents tend to put tickets together and do put tickets together.

Q. Are there other political organizations? A. Yes, across the city, right.

Q. Could you name some? A. The RDO, Record Democratic Organization, the League of Good Government, the public elected officials put—parochial elected officials put together tickets, OPPVL.

Q. What is that? A. I don't know.

Q. Is it a white or black—— A. It's a black organization. Most organizations put together tickets, political organizations.

Q. Are any of the organizations integrated [41] organizations? A. Not to my knowledge.

Q. Did Judge Augstine run on a ticket? A. Yes, he ran on the mayor's ticket and as a consequence of that, it was picked up on other people's ticket.

Q. What other people's ticket? A. As I recall, like, for instance, the RDO's people of New Orleans which is basically administration type people.

Q. Is that white or a black group? A. White. The various—what's the name of that—well, Bold Coup, SOUL, the Crescent City Voters League.

Q. Is that a white or black group? A. Basically white group, it is a white group. The Council of Good Government or the League of Good Government.

Q. Did Judge Spears run on a ticket or Dr. Spears? A. Dr. Spears. Yes, he was endorsed.

Q. By whom? A. Well, technically you couldn't endorse him, but he was carried on tickets because it's supposed to be a nonpartisan type [42] of election, but there were tickets out with his name on it. I don't think you could endorse him publicly.

Q. Was he carried on the tickets of white organizations? A. Yes, white.

Q. Was he carried on the tickets of black organizations? A. Right.

Q. How about Judge Morial? A. Same thing.

Q. Did you run on a ticket? A. My own, for my district.

Q. Were you carried on any other tickets? A. Only the black organizations.

Q. Are you familiar with Mrs. Gloria Taylor? A. Yes.

Q. Do you know how many times she's ran for the legislature? A. Twice.

Q. Do you know whether she was carried on tickets? A. Her own ticket that she put together for her district.

Q. Has she ever been carried on a white ticket, [43] to your knowledge? A. I can't recall.

Q. Do you know any other black candidates other than Judge Augustine, Judge Morial, Dr. Spears that were carried on white tickets? A. I can't recall any.

Q. Mr. Jackson, do you know any purpose or any function that wards serve in the City of New Orleans? A. not really. I've been hassling with that problem myself. I guess it's just a hysterical thing and that's all. As far as any function as such, no, because I don't know of any parochial office or elective office that's confined to any particular ward.

Q. Do legislative districts follow ward lines? A. Not really, I cross my district—my district takes in two wards, portions of two wards and they don't follow the ward line. Louis Charbonnet's district takes something like portions of five different wards, so, I don't think there is any pattern to follow concisely ward [44] lines.

Deposition of Philip C. Ciaccio,

(Excerpts)

October 3, 1973

[15] Q. You say you didn't want to dilute anyone, black or white, dots that mean that you wanted to maintain the status quo? [16] A. I'd say that the consideration insofar as I'm thinking, now, District E was concerned, assuming I had 17,000 population that had to be moved into another district, I, certainly, didn't want to move 17,000 black voters out of the District E into District D and I felt this

would certainly be something that would be subject to criticism, attacks, etc., nor did I want to move 17,000 white voters out or 17,000 people because we're not talking about voters, as this would probably fall in the same categories, so, insofar as I was concerned with regard to District E, I was looking at what would be a reasonable geographical line, and it so happened that the population ratios pretty much would be fairly equal, black and white as if you drew an ordinary straight line moving eastward from, let's say, Franklin Avenue, which would be the general boundary line. I was quite conscious of the fact that if I moved, for instance, the Desire Housing Project, [17] which is totally black, out of District E into District D that I would certainly be accused of doing something that was racially motived. There was no attempt to do anything like that. I felt that my district had about a 50/50 population, white and black, and that it was reasonable to attempt to maintain this.

Q. Would you say that was a consideration of some of the other councilmen, also, in terms of the other districts? A. I would imagine that since part of the submission of the Justice Department required information both as to population and as to voting strength, that these factors or these numbers were something that each individual councilman at least had reference to. Whether this was an overriding consideration, I sincerely doubt, but I don't think they lived in a vacuum and didn't know what the population ratios and the voting ratios would, ultimately, be because it was part of the information that had [18] to be furnished.

Deposition of Cecil W. Carter

(Excerpts)

October 4, 1973

[3] Q. Mr. Carter, would you please state your name and address for the record. A. I am Cecil W. Carter, Jr., and I live at [4] 1665 Sere Street, New Orleans, Louisiana 70122.

Q. And, Mr. Carter, what is your present occupation? A. I am Executive Director of the Human Relations Committee for the City of New Orleans.

Q. And is that a city position or a private organization? A. It's a city position I am a member of the mayor's staff.

Q. Are you appointed to that position by the mayor? A. I am.

Q. And how long have you held that position? A. I have been Executive Director since September of 1970 but I have been employed in the Human Relations Committee Office as either a Deputy or Executive Director since September of 1970. I have been Executive Director since 1971, I'm sorry.

Q. Since September, 1970, in other words? A. Yes.

Q. In other words, you have been in that [5] position for about three years? A. Yes.

Q. And what was your occupation or what position did you hold prior to going with the Human Relations Committee? A. For one year prior—the year July, 1969 to July of 1970 I was director of—I was called the training manager working for the Royal Sonesta Hotel which was to implement a job contract, a manpower contract that the hotel had with the Federal Government to employ the so-called hard core unemployed.

Q. And prior to that what position did you hold? A. For two years prior to that I was employed at the Urban League of Greater New Orleans as coordinator of veterans affairs which was a job development and placement kind of activity primarily. For three years prior to that I was a Welfare visitor in the State Department of Public Welfare. For two years prior to that I was youth secretary at the Dryades Street [6] Y.M.C.A. here in New Orleans. That is all.

Q. And what is your educational background may I ask? A. I have a bachelor's degree from Dillard University in New Orleans.

Q. Now, could you briefly describe your duties on the Human Relations Committee at the present time? What does your position entail? A. The Human Relations Committee is an advisory group, an advisory committee of twenty-eight citizens ordained by the City Council in 1968 to advise the mayor and the City Council on matters dealing with human relations, and I'm the staff person to that committee and to the mayor. We devise programs and projects and we seek to improve the human relations in the city. As well we do some social research and planning, and we do crisis intervention, conciliation and there is other kinds of related activities.

[13] Q. Now, did you discuss any ideas that you might have about redistricting of the city with any representatives of the council research staff? A. Yes, I did. I did have a discussion with Mr. Jim Pezant.

Q. And when did that occur do you know? A. It was I believe in the spring of this year, I don't recall it exactly.

Q. In the spring of 1973? A. That is right.

Q. And where did that discussion take place? A. In the office.

Q. And what was the substance of the discussion? A. As I recall the discussion centered around the questions that I raised of him as to why the City Council did not actively support the two referanda that were previously submitted to the citizenry to expand the size of the City Council, increase the size of the City Council.

Q. And what was the substance of his remarks? [14] A. As I recall he had the same kind of questions himself. He indicated that the first proposition that was offered which would have increased the size of the Council to an eleven man body, providing for a Council of eleven of nine districts with two running at large could have resulted in a districting plan that would have enabled the incumbent to run in separate districts while providing for four additional districts that would be more or less up for grabs. That it expectedly could have had any number of those four remaining won by blacks which expansion

plan would have perhaps been a satisfactory arrangement for most people who were concerned about it or who had expressed concern about redistricting. Neither of us really at that point could understand why the councilmen did not actively support that referanda feeling that support may have provided for the passage of the plan by the citizenry.

[15] Q. Now, is that the only discussion you had with Mr. Pezant? A. No, we did also discuss the other proposition that was subsequently put before a vote to expand the Council to a nine member group, and our conclusions were as I recall much the same though it would not have been as good as the nine and two plan. When we began to talk about the plan that has now been submitted Mr. Pezant admitted quite frankly to me the plan was drawn so as to assure that no incumbent would be pitted against each other. I expressed at that time to Mr. Pezant my feelings on the matter and suggesting that such a plan would by protecting the incumbent councilmen have a racial discriminatory effect in my opinion.

[41] Q. You stated that in your position as Executive Director of the Human Relations Committee that part of your job is to advise the mayor of various problems concerning Human Relations and I believe you also stated you monitor employment practices? A. Yes.

[42] Q. Do you have statistics on that? A. Yes.

Q. Do you have those with you? A. I have some of them with me, yes.

Q. May I see those please? (Handing same.) This first sheet you have here dated 6-14-73 explain what this is?

Mr. Stoner: Could we have it identified for the record. You will be attaching this as an exhibit to the deposition?

Mr. Friends: Yes, I will. Please mark this Exhibit 1.

(Thereupon, the reporter marked the exhibit as requested.)

The Witness: I have a page missing and I'd like to go back and get the full and correct copy.

(Recessed for a short time.)

By Mr. Friends:

Q. Could I see that document? A. Yes.

Q. Mr. Carter, would you explain what the [43] document described as Exhibit 1 is? A. This is a departmental breakdown of city employees as of 6-14-73.

Q. How is that broken down? A. It's broken down by departments and in some instances division within departments.

Q. Is it also broken down by race? A. It's broken down by race and that is all.

Q. Do you have other documents? A. Yes, I do. I have a similar breakdown by department and by race as of the date 8-1-73.

Mr. Friends: I would like to get this marked Exhibit 2.

(Thereupon, the reporter marked the exhibit as requested.)

By Mr. Friends:

Q. Is that the same as Exhibit 1? A. Yes, it is except it's about a year apart it's comparative.

Q. Just an updating? A. That is right. Exhibit 1 is the latest of such breakdowns that we have been able to compile. I also have a breakdown [44] showing the rate of increase of blacks in employment in city government on a rather regular basis dating from 5-15-67 through 7-12-73 and it's broken down not by departments but by date and showing the number and percentages of the blacks employed.

Q. City government as a whole? A. That is right. That is in the classified service, that is in the Civil Service positions.

Q. How do you compile these statistics? A. Exhibit 3 the sequence of black-white employment and racial and

classified service dating from May of 1967 was compiled by and within the Civil Service department of the city and was made available to me here lately this summer. As a matter of fact, the departmental breakdown by race Exhibits 1 and 2 is data that we compiled from a computer printout that we had requested through our office from the computer. It comes out of the finance department and it's rather [45] complicated.

Q. This is from the payroll? A. Yes.

Q. Do you have further statistics concerning employment in the city? A. I think those that you have would most clearly indicate what the employment patterns of the city government are as regard to race. I have other kinds of breakdowns but they are in office kind of material which in my opinion really would not help.

Q. This does cover it for the city government as a whole? A. Yes.

Q. As of the dates indicated? A. Yes.

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DEPARTMENTAL BREAKDOWN OF CITY EMPLOYEES - 6/14/73

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	OTHER/%
	ALCOHOL SAFETY ACTION PROGRAM	30	14	46.7	16	53.3	
9621	ASAP	21	8	38.1	13	61.7	
9671	ASAP - Traffic Probation	9	6	66.7	3	33.3	
3011	AVIATION	64	35	54.7	29	45.3	1/2 O
	CHIEF ADMINISTRATIVE OFFICE	48	40	83.2	7	14.8	
0351	CAO	2	2	100	0	0	
0352	Planning Division	16	14	87.5	1	6.3	1/6...
0353	Operations Division	19	17	89.5	2	10.5	
0354	Federal Programs Division	11	7	63.6	4	36.4	
0351	CITY ATTORNEY	51	47	92.2	4	7.8	
7501	CIVIL DEFENSE	14	12	85.7	2	14.3	
	CIVIL SERVICE DEPARTMENT	52	41	78.8	11	21.2	
6001	Director's Office	2	2	100	0	0	
6002	Recruitment Division	21	19	90.5	2	9.5	
6003	Classification Division	16	11	68.8	5	31.2	

5004	Employee Relations						
5006	Management Services						
9571	Public Service Careers						
9401	CITY DEMONSTRATION AGENCY	61	3	4.9	58	95.1	
9581	Certified Area						
	COOPERATIVE MANPOWER PLNG. SYSTEM	12	2	16.7	10	83.3	
9541	CAMPS						
9471	Youth Opportunity Program						
9711	Summer Youth Program						
	CITY COUNCIL	37	34	91.1	3	8.1	
9011	Councilmen's Offices						
9051	Clerk of Council						
	CRIMINAL JUSTICE COORDINATING COUNCIL	47	37	78.7	10	21.3	
9561	CJCC						
9691	CJCC - continued						
9741	Indigent Defender Program						
9791	Ind. Def. Prog.-Municipal & Traffic Cts						
9781	Target Area Crime Program						

EXHIBIT 1

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6-14-73

Departmental Breakdown - Continued - page 2

CODE	DEPARTMENT	TOTAL	White	%	Black	%	Other
	FINANCE	318	222	69.8	96	302	
4501	Director's Office	9	7	77.8	2	22.2	
4502	Internal Audit	5	4	80	1	20	
4551	Purchasing	25	23	92	2	8	
4601	Accounting	63	50	79.4	13	20.1	
4651	Treasury Administration	4	4	100	0	0	
4652	Tax Collection & Audit	37	28	75.7	9	24.3	
4653	Receipts & Disbursements	8	5	62.5	3	37.5	
4654	Parking Meter Collection	8	3	37.5	5	62.5	
4681	Bureau of Revenue	97	77	79.4	20	20.6	
4751	Employee Retirement	7	6	85.7	1	14.3	
4801	Bureau of Food Stamps	50	12	24	38	76	
0291	Central Duplicating	5	3	60	2	40	
DEDP	EDP	76	51	67.1	25	32.9	
	FIRE	1020	992	97.3	26	2.5	2/
1501	Administration	7	7	100	0	0	

1501	Administration	7	7	100	0	0	
1551	Firefighting	962	938	97.5	22	2.3	2/1
1553	Fire Training	5	4	80	1	20	
1601	Fire Dispatching	21	20	95.2	1	4.8	
1651	Fire Prevention	25	23	92	2	8	
	GENERAL SERVICES	15	10	66.7	5	33.3	
7751	Mailing	7	4	57.1	3	42.9	
7841	Public Information Office	8	6	75	2	25	
	HEALTH	444	197	44.4	245	55.15	2/4
4001	Director's Office	6	2	33.3	4	66.7	
4351	Administration	9	6	66.7	3	33.3	
4371	Communicable Disease Control	9	7	77.8	2	22.2	
4381	Public Health Nursing, Maternal & Child Care	116	50	43.1	65	56	1/1
4401	Dental Health	2	1	50	1	50	
4411	Venereal Disease Control	13	9	69.2	4	30.8	
4421	Public Health Sanitation	45	29	64.4	16	35.1	
4431	Vector Control	11	6	54.5	5	45.5	
4441	TB Control	35	27	77.1	8	22.1	
4451	Health Lab	1	1	100	0	0	
4463	Air Surveillance	16	4	25	12	75	
4351	Vital Records	26	20	76.9	6	23.1	

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Departmental Breakdown - Continued - page 3

6-14-73

CODE	DEPARTMENT	TOTAL	White	%	Black	%	Other/%
	HEALTH - continued						
1472	Parish Prison Medical Clinic	16	3	18.8	13	81.3	
9341	Home Health Services	10	3	30	7	70	
9611	Environmental Health Service	26	1	3.8	25	96.2	
9661	Rodent Control	28	4	14.3	24	85.7	
9701	AFDC Program	23	13	56.5	10	43.5	
9731	Improved TB Control	2	1	50	1	50	
9301	Sickles	1	1	100	0	0	
NR01	Drug Abuse Treatment Program	49	9	18.4	39	79.6	1/2. D.
	LIBRARY	185	118	638	67	362	
L50A	Administration	16	12	75	4	25	
L50B-M	Maintenance & Operation	109	67	61.5	42	38.5	
L50P-Z	Branch Libraries	42	30	71.4	12	28.6	
L501	Bookmobiles	8	5	62.5	3	37.5	
L551	Restricted Funds	10	4	40	6	60	
	MAYOR	46	26	56.5	20	43.5	

	MAYOR	46	26	56.5	20	43.5	
0251	Mayor's Office (incl. Intern'l Rels)	19	13	68.4	6	31.6	
0252	Human Relations Committee	14	5	35.7	9	64.3	
0262	Consumer Affairs	7	4	57.1	3	42.9	
9741	Urban Development & Planning	6	4	66.7	2	33.3	
MC01	MOSQUITO CONTROL	26	21	80.8	5	19.2	
	POLICE (see attached breakdown)	1841	1531	83.2	309	16.7	V.D.
1001	Superintendent	23	19	82.6	4	17.4	
1002	Internal Affairs Div.	8	8	100	0	0	
1003	Community Relations Div.	28	9	32.1	19	67.9	
1004	Inspections Division	3	3	100	0	0	
1005	Research & Planning Div.	6	5	83.3	1	16.7	
1006	Special Invest. Div.	74	64	86.5	10	13.5	
1051	Public Information Div.	4	4	100	0	0	
1052	Fiscal & P.M. Div.	141	95	67.4	45	31.9	V.D.
1053	Educ. & Training Div.	44	36	81.8	8	18.2	
1054	Tech. Services	341	267	78.3	74	21.7	
1055	Personnel Div.	24	17	70.8	7	29.2	
1061	Patrol Division	681	605	88.8	76	11.2	
1062	Spec. Operations Div.	60	60	100	0	0	
1063	Juvenile Div.	42	37	88.1	5	11.9	

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6-14-73

Departmental Breakdown - continued - 4

CODE	DEPARTMENT	TOTAL	White	%	Black	%	Other/
	POLICE - continued						
1064	Traffic Division	235	178	75.7	57	24.3	
1065	Criminal Invest. Div.	127	17.4	77.6	3	2.4	
	PROPERTY MANAGEMENT	805	472	58.6	330	41	3/.4
5001	Director's Office	12	6	50	6	50	
5051	Public Bldgs. Admin.-	21	15	71.4	6	28.6	
5101	Public Bldgs. Custodial Serv.	195	54	26.7	140	71.8	3/1
5151	Public Cemeteries	18	4	22.2	14	77.8	
5251	Public Bldgs. Maintenance	221	162	73.3	59	26.7	
5651	Historical Pharmacy Museum	3	0	0	3	100	
5801	Municipal Auditorium	42	33	78.6	9	21.4	
5701	Real Property Records	15	16	88.9	2	11.1	
5751	City Telephone Expense	10	7	70	3	30	
5801	Municipal Yacht Harbor	17	14	82.4	3	17.6	
5951	Central Maintenance Garage	214	147	68.7	67	31.3	

5951	Central Maintenance Garage	214	147	68.7	67	31.3	
5961	Theatre of Performing Arts	34	16	47.1	18	52.9	
0450	PUBLIC EMPLOYMENT PROGRAM	11	6	54.5	3	27.3	2/18.
	RECREATION	419	152	36.3	266	63.5	1/.2
3501	Administrative Office	19	11	57.9	8	42.1	
3504	Maintenance	53	28	52.8	25	47.2	
3506	Seasonal	36	4	11.1	32	88.9	
3507	Audubon Park Pool	1	1	100	0	0	
3511	Program Division	92	34	37	58	63	
3512	Uptown Division	53	13	24.5	40	75.5	
3513	Downtown Division	65	13	20	51	78.5	1/1
3514	Lakeshore Division	47	22	46.8	25	53.2	
3515	Algiers Division	41	20	48.8	21	51.2	
9421	Audubon Park Pool	12	6	50	6	50	
	SAFETY & PERMITS	270	182	67.4	88	32.6	
2001	Director's Office	13	10	76.9	3	23.1	
2002	Bd. of Bldg. Stds & Appeals	1	1	100	0	0	
2003	Bd. of Exam. of Oper. Engrs.	5	2	40	3	60	
2004	Bd. of Zoning Adjust. & Appeals	1	1	100	0	0	

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Departmental Breakdown - continued - 5

6-14-73

CODE	DEPARTMENT	TOTAL	White	%	Black	%	Other/I
	SAFETY & PERMITS - continued						
2052	Building Inspection	35	33	94.3	2	5.7	
2053	Electrical Inspec. Section	26	26	100	0	0	
2054	Mechanical Inspec. Section	27	23	85.2	4	14.8	
2055	Plan Processing Section	5	5	100	0	0	
2056	Housing Improvement	38	27	71.1	11	28.9	
2057	Central Relocation	24	11	45.8	13	54.2	
2101	Motor Vehicle Inspec.	65	38	58.5	27	41.5	
9631	Code Enforcement	30	5	16.7	25	83.3	
	SANITATION ** See Pg. 6 also	720	412	57.2	308	42.8	
2501	Director's Office	15	15	100	0	0	
2703	7th Street Incinerator	25	21	84	4	16	
2704	Algiers Incinerator	23	22	95.7	1	4.3	
2705	Gentilly Land Fill	17	17	100	0	0	
2706	Algiers Land Fill	8	8	100	0	0	
2707	Incinerator Support	10	7	70	3	30	

2707	Incinerator Support	10	7	70	3	30	
2708	N.O. East Incinerator	23	19	82.6	4	17.4	
2751	Manual Street Cleanup	57	43	75.7	12	21.1	
2752	Mechanical Cleanup	12	12	100	0	0	
2753	Flushing	6	6	100	0	0	
2754	Algiers Street Cleanup	9	9	100	0	0	
2755	Task Force Cleanup	6	6	100	0	0	
2756	Vieux Carre Cleanup	12	12	100	0	0	
2301	Grasscutting	12	9	75	3	25	
	STREETS	542	353	65.2	188	34.6	1.2
3001	Director's Office	9	8	88.9	1	11.1	
3051	Engr. Division - Admin.	9	8	88.9	1	11.1	
3052-3-5-3061	Operations	83	74	89.2	8	9.6	1.1
3101	Maintenance Div. - Admin.	16	15	93.8	1	6.3	
3108 - L	Operations	316	192	53.2	124	46.8	
3251	Traffic Engr. - Admin.	16	16	100	0	0	
3252-3	Operations	46	40	83.3	8	16.7	
3000	UPPER PONTALBO	3	2	66.7	1	33.3	
	UTILITIES	24	18	75	6	25	
6501	Director's Office	3	2	66.7	1	33.3	
6551	Regulatory Division	4	4	100	0	0	
61	Taxicab Bureau	17	12	70.6	5	29.4	

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6-14-73

Departmental Breakdown - continued - 6

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	OTHER/%
	WELFARE	257	61	23.7	196	76.3	
9231-2-3	Administration Offices	46	6	13.04	40	86.96	
9201	Touro Shakespeare	88	16	18.1	72	81.8	
9221	Milne Home	47	16	34	31	66	
9241	Youth Study Center	52	18	34.6	34	65.4	
9551	Juvenile Offenders	10	4	40	6	60	
9721	St. Bernard Area Guidance	2	0	0	2	100	
9751	West Bank Outreach Center	2	0	0	2	100	
9761	Lead Poisoning Unit	10	1	10	9	90	
	UNATTACHED BOARDS & COMMISSIONS						
	PARKWAYS & PARKS	299	152	50.9	146	48.3	1/.8
P03A	Administration	13	11	84.6	2	15.4	
P03C	Green Houses	4	3	75	1	25	
P03D	Nurseries	19	11	57.9	8	42.1	
P03E	Building & Util. Maint.	6	3	50	3	50	

PO3D	Nurseries	19	11	57.9	8	42.1	
PO3E	Building & Util. Maint.	6	3	50	3	[illegible]	
PO3F	Tree Trim & Removal	53	34	64.2	19	35.8	
PO3G	Grass Cutting	104	27	26	77	74	
PO3H	Flower & Shrubbery	62	42	67.7	20	32.3	
PO3J	Algiers	9	4	44.4	5	55.6	
PO3K	Park Devel. & Const.	6	3	50	3	50	
PO3L	Pontchartrain Park	13	0	0	13	100	
PO3M	Brechtel Park	10	8	80	2	20	
7051	CITY PLANNING COMMISSION	42	28	66.7	14	33.3	
9451	FRENCH MARKET CORPORATION	24	8	33.3	16	66.7	
7101	VIEUX CARRE COMMISSION	6	5	83.3	1	16.7	

TOTAL EMPLOYEES 8,459 WHITE 6045 BLACK 2672 OTHER 12

_____ % _____ % _____ %

Totals as of 8/1/72: Total 9420 White 5704 (60.5%) Black 3702 (39.2%)

Other 14 (0.1%)

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DEPARTMENTAL BREAKDOWN OF CITY EMPLOYEES - 8-1-72

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	
	ALCOHOL SAFETY ACTION PROGRAM	38	21	55.2	17	44.8	
9521	ASAP	28	14	50.0	14	50.0	
9671	ASAP - Traffic Probation	10	7	70.0	3	30.0	
4011	AVIATION	58	37	63.8	21	36.2	
	CHIEF ADMINISTRATIVE OFFICE	50	41	82.0	9	18.0	
0351	CAO	2	2	100	0	0	
0352	Planning Division	15	13	86.7	1	6.7	1/6.
0353	Operations Division	20	17	85.0	3	15.0	
0354	Federal Programs Division	13	8	61.5	5	38.5	
0851	CITY ATTORNEY	47	43	91.5	4	8.5	
7501	CIVIL DEFENSE (See Pg. 6) a.c.o CIVIL SERVICE DEPARTMENT **	52	41	78.9	11	21.1	
6001	Director's Office	2	2	100	0	0	
6002	Recruitment Division	27	23	85.2	4	14.8	
6003	Classification Division	15	11	73.3	4	26.7	
6006	mgmt Services						
6004	Employee Relations	4	4	100	0	0	

6006	Mgmt Services					
6004	Employee Relations	4	4	100	0	0
7571	Public Service Careers					
9401	CITY DEMONSTRATION AGENCY ***	85	7	8.2	78	91.8
1659	Certified Area					
	COOPERATIVE MANPOWER PLNG. SYSTEM	113	11	9.7	102	90.3
9541	CAMPS	6	1	16.7	5	83.3
9471	Y.O.P.	11	1	9.1	10	90.9
9711	Summer Youth Program	96	9	9.4	87	90.6
	CITY COUNCIL	37	33	89.2	4	10.8
0011	City Councilmen's Offices	29	27	93.1	2	6.9
0051	Clerk of Council	8	6	75.0	2	25.0
	CRIMINAL JUSTICE COORDINATING COUNCIL	37	28	75.7	9	24.3
9361	CJCC	10	5	50.0	5	50.0
9691	CJCC - continued	3	3	100	0	0
7791	2nd Def/Proj - Minor Traffic					
7641	Indigent Defender's Program	24	20	83.3	4	16.7
7781	Target area Crime Proj					
	FINANCE	345	2[illegible]	7[illegible]	[illegible]	[illegible]
0501	Director's Office	11	8	72.7	3	27.3
0502	Internal Audit	5	5	100	0	0
0551	Purchasing	26	24	92.3	2	7.7
0601	Accounting	64	50	78.1	14	21.9

7571 - Public Service Careers listed on Pg. 6; figures included in Civil Service total.
9681 - Certified Area listed on Pg. 6; figures included in CDA total.

EXHIBIT 2.

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Departmental Breakdown - continued - page 2

8/1/72

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	CITY
	Finance - continued						
1651	Treasury Administration	4	4	100	0	0	
1652	Tax Collection & Audit	46	33	71.7	13	28.3	
1653	Receipts & Disbursement	6	5	83.3	1	16.7	
1654	Parking Meter Collection	8	3	37.5	5	62.5	
1681	Bureau of Revenue	97	79	81.4	18	18.6	
1751	Employee Retirement	6	5	83.3	1	16.7	
1801	Bureau of Food Stamps	39	5	12.8	34	87.2	
9291	Central Duplicating	6	5	83.3	1	16.7	
BEDP	EDP	77	56	72.7	21	27.3	
	FIRE	1030	994	97.1	24	2.3	
1501	Administration	9	8	88.9	1	11.1	
1551	Firefighting	966	942	97.5	22	2.3	7/0
1553	Fire Training	5	4	80.0	1	20.0	
1601	Fire Dispatching	21	19	90.5	2	9.5	
1651	Fire Prevention	29	26	89.7	3	10.3	

1651	Fire Prevention	29	26	89.7	3	10.3	
	GENERAL SERVICES	–	–	–	–	–	–
1751	Mailing	10	8	80.0	2	20.0	
1841	Public Info. Officer						
	HEALTH	494	206	41.7	286	58.1	2/
4001	Director's Office	10	4	40.0	6	60.0	
4351	Administration	7	4	57.1	3	42.9	
4361	Vital Records	27	24	88.9	3	11.1	
4371	Communicable Disease Control	9	8	88.9	1	11.1	
4374	~~Sickles' Dispensary~~	1	1	100	0	0	
4381	Public Health Nursing, Maternal & Child Care	131	54	41.2	76	58.0	1/0
4401	Dental Health	5	1	20.0	4	80.0	
4411	Venereal Disease Control	16	14	87.5	2	12.5	
4421	Public Health Sanitation	57	33	57.9	24	42.1	
4431	Vector Control	12	7	58.3	5	41.7	
4451	Health Lab						
4461	Rodent Control	33	1	3.0	32	97.0	
4841	Home Health Services	9	2	22.2	7	77.8	
4911	Environmental Health Service	30	1	3.3	29	96.7	
4441	T.B. Control	37	28	75.7	9	24.3	
4731	Improved T.B. Control						
4[illegible]	~~Laboratory~~	1	1	100	0	6	

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Departmental Breakdown - continued - page 3

8/1/72

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	
	Health - continued						
~~H463~~	Air Surveillance	31	5	16.1	26	83.9	
~~H472~~	Parish Prison Medical Clinic	17	4	23.5	13	76.5	
HR01	Drug Abuse Treatment Program	60	13	21.7	46	76.7	1/1.7
9701	AFDC Program	1	1	100	0	0	
9801	Sickles ~~Pre~~ Clinic						
	LIBRARY	212	145	[illegible]	[illegible]	[illegible]	
L50A	Administration	16	14	87.5	2	12.5	
L50B-M	Maintenance & Operation	120	85	70.9	35	29.1	
L50P-Z	Branch Libraries	46	33	71.8	13	28.2	
L501	Bookmobiles	6	3	50.0	3	50.0	
L551	Restricted Funds	24	8	33.3	16	66.7	
	MAYOR	54	33	[illegible]	[illegible]	[illegible]	
M0251	Mayor's Office, ~~PR~~ (Intern'l Rels.)	29	21	72.4	8	27.6	
M0252	Human Relations Committee	16	6	37.5	10	62.5	
M0262	Consumer Affairs	7	4	57.1	3	42.9	
9741	Urban Development & Planning	2	2	100	0	0	

9741 ~~9271~~	Urban Development & Planning	2	2	100	0	0	
~~1C01~~	MOSQUITO CONTROL	29	29	100	0	0	
	POLICE	1583	1583	84.0	291	15.9	
1001 ~~100A~~	Superintendent	40	36	90	4	10	
1055 ~~100B~~	Police Surgeon	4	4	100	0	0	
1052 ~~100C~~	Budget Control	6	5	83.3	0	0	1/16.
~~105A-D~~	Operations	180	109	60.6	71	39.4	
1053 ~~105E~~	Police Academy	57	49	86.0	8	14.0	
1052 ~~105F~~	General Services	11	10	90.9	1	9.1	
1052 ~~105G~~	Motor Maintenance	57	33	57.9	24	42.1	
105H-M	Operations	132	105	79.6	27	20.4	
1054 ~~105N~~	Central Lockup	86	61	70.9	25	29.1	
1003 ~~105O~~	Community Relations Division	28	9	32.1	19	67.9	
1054 ~~105P~~	Data Processing	6	6	100	0	0	
1062 ~~105Q~~	Tactical Unit	58	57	98.3	1	1.7	
1005 ~~105R~~	Planning Division	7	7	100	0	0	
1054 ~~105S~~	Band	34	34	100	0	0	
1006 ~~105T~~	Vice Squad	26	24	92.3	2	7.7	
1006 ~~105U~~	Narcotics	26	21	80.8	5	19.2	
1006 ~~105V~~	Intelligence Division	22	19	86.4	3	13.6	

105A – 1055
105B – 1054
105C – 1054

105D – 1061

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partmental Breakdown - continued - page 4

8/1/72

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	OTHE
	Police - continued						
107A-J	Operations	272	226	83.1	46	16.9	
~~1063~~	Juvenile Bureau X	44	39	88.6	5	11.4	
107M	Detective Bureau - General	121	115	95.0	6	5.0	
107N	Bureau of Identification	27	27	100	0	0	
107P	Auto Theft	11	9	81.8	2	18.2	
~~107E~~	~~Emergency Employment Pick up~~						
~~107A~~	~~First District~~	94	89	94.7	5	5.3	
1072	Second District	78	78	100	0	0	
1073	Third District	65	65	100	0	0	
1074	Fourth District	44	42	95.5	2	4.5	
1075	Fifth District	80	75	93.8	5	6.3	
1076	Sixth District	87	84	96.6	3	3.4	
1077	Seventh District	50	49	98.0	1	2.0	
1078	Eighth District	49	47	95.9	2	4.1	
10A	Bureau of Corrections	73	41	56.2	32	43.8	
		8	8	100	0	0	

110A	Bureau of Corrections	73	41	56.2	32	43.8	
115A	Police Bureau of Investigation	8	8	100	0	0	
	PROPERTY MANAGEMENT	902	494	54.7	405	44.9	3/
5001	Director's Office	13	5	38.5	8	61.5	
5051	Public Buildings Administration	21	14	66.7	7	33.3	
5101	Public Buildings Custodial Services	238	60	25.2	175	73.5	3/
5151	Public Cemeteries	40	4	10.0	36	90	
5251	Public Buildings Maintenance	239	171	71.5	68	28.5	
5551	Historical Pharmacy Museum	3	1	33.3	2	66.7	
5701	Municipal Auditorium	57	33	57.9	24	42.1	
5701	Real Property Records	17	15	88.2	2	11.8	
5751	City Telephone Expense	9	6	66.7	3	33.3	
5801	Municipal Yacht Harbor	14	12	85.7	2	14.3	
5901	Central Maintenance Garage	251	173	68.9	78	31.1	
5951	Theatre of Performing Arts	11	6	54.5	5	45.5	
1065	P.E.P.						
1011	P.E.P. 666						
	RECREATION	1345	997	74.1	1014	75.3	2/
3001	Administrative Office	17	9	52.9	8	47.1	
3051	Maintenance	59	23	39.0	36	61.0	
3101	Seasonal	201	96	47.8	105	52.2	
3501	Audubon Park Pool						
3551	Program Division	675	89	13.2	585	86.7	1/0.1

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8/1/72

Departmental Breakdown - continued - page 5

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	OTHER
	Recreation - continued						
3512	Uptown Division	106	24	22.6	82	77.4	
3513	Downtown Division	105	28	26.7	76	72.4	1/1.
3514	Lakeshore Division	75	24	32.0	51	68.0	
3515	Algiers Division	56	24	42.9	32	57.1	
9421	Audubon Park Pool	51	12	23.5	39	76.5	
	SAFETY & PERMITS	344	193	56.1	150	43.6	1 - .
2001	Director's Office	16	14	87.5	2	12.5	
2002	Board of Building Stds & Appeals	1	1	100	0	0	
2003	Bd. of Exam. of Oper. Engineers	5	4	80.0	1	20.0	
2004	Bd. of Zoning Adjust. & Appeals	1	1	100	0	0	
2052	Building Inspection	36	31	86.1	5	13.9	
2053	Electrical Inspection Section	27	27	100	0	0	
2054	Mechanical Inspection Section	28	21	75.0	7	25.0	
2055	Plan Processing Section	7	7	100	0	0	

2055	Plan Processing Section	7	7	100	0	0	
2056	Housing Improvement	41	31	75.6	10	24.4	
2057	Central Relocation						
2101	Motor Vehicle Inspection	78	43	55.1	34	43.6	1/1
~~9521~~	~~Interim Assistance~~	-57	0	0	57	100	
9631	Code Enforcement	28	5	17.8	23	82.1	
~~9101~~	~~General Relocation~~	19	8	42.1	11	57.9	
	SANITATION	760	432	56.9	328	43.1	
2755	Task Force Cleanup						
2501	Director's Office	16	16	100	0	0	
2801	Grass Cutting						
*	Operations	744	416	56.0	328	44.0	
2756	V.C. Cleanup						
	STREETS	557	387	69.6	200	34.0	
3001	Director's Office	10	7	70.0	3	30.0	
3051	Engr. Division - Admin.	9	8	88.9	1	11.1	
3052,3, 5, 3061	Operations	84	77	92.7	7	8.3	
310F	Streets - Dist. #1						
310A	Maintenance Division - Administration	16	15	93.8	1	6.3	
310L	Streets - Citywide						
3108-L	Operations	404	220	54.4	184	45.6	
310D	Streets - Store Section						
3251	Traffic Engineering - Administration	18	18	100	0	0	
310C	Streets						
3052,3	Operations	46	42	91.4	4	8.6	
310B	Streets - Asphalt Plant Section						
7000	UPPER PONTALBO	4	3	75.0	1	25.0	

*Includes Sanitation codes 2601, 2651-56, 2701-08, 2751-56, and 2801

Sanitation (cont)

2754 - Algiers Street Cleanup
2753 - Flushing
2752 - Mechanical Cleanup
2751 - Manual Street Cleanup

2707 - Incinerator Supp
2706 - Algiers Land F
2705 - Gentilly Land F
2704 - Algiers Incin.
2703 - 7th St. Incin.

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Departmental Breakdown - continued - page 6

8/1/72

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	OTHER
	UTILITIES	26	20	76.9	6	23.1	
~~6301~~	Director's Office	4	3	75.0	1	25.0	
~~6351~~	Regulatory Division	4	4	100	0	0	
6601	Taxicab Bureau	18	13	72.2	5	27.8	
	WELFARE	346	69	19.9	276	79.1	1/0.1
9231 ~~213~~	Administration Office	126	10	7.9	116	92.1	
~~9241~~	~~Detention~~						
9221	Milne Home	56	17	30.4	39	69.6	
~~9251~~	~~Shelter~~						
9201	Touro Shakespeare	90	19	21.1	71	78.9	
9241	Youth Study Center	61	18	29.5	42	68.9	1/1.6
~~9551~~	Juvenile Offenders	11	5	45.5	6	54.5	
9701 - Lead Poisoning							
9721	St. Bernard Area Guidance						
9751	West Bank Outreach Center	2	0	0	2	100	
~~7501~~	~~CIVIL DEFENSE~~						
~~9561~~	~~Docker~~	14	12	85.7	2	14.3	
~~9571~~	~~Public Service Careers~~ Aud Servi	4	1	25.0	3	75.0	
~~9681~~	~~Certified Area~~						
9721	St Bernard Area Guidance Cente	6	0	0	6	100	
	UNATTACHED BOARDS AND COMMISSIONS						

UNATTACHED BOARDS AND COMMISSIONS							
	PARKWAYS & PARKS	3.0	165	42.3	200	54.8	
P03K	Development + Const						
P03A	Administration	17	10	58.8	7	41.2	
P03M	Brectal Park						
P03J	Athens						
P03C-M	Operations						
P03L	Pontchatrain Park	348	155	445	193	55.5	
7051	CITY PLANNING COMMISSION	43	32	74.4	11	25.6	
9451	FRENCH MARKET CORPORATION	34	11	32.4	23	67.6	
7101	VIEUX CARRE COMMISSION	7	6	85.7	1	14.3	
7301	~~RAILROAD TERMINAL BOARD~~		1	100	0	0	
7351	~~AUDUBON PARK COMMISSION~~	not available				-	

TOTAL EMPLOYEES 1413 WHITE 5'134 BLACK 370 OTHER 14

60.55% 37.29% 0.13 %

Parkways + Parks (Cont)

P03H - Flower + Shrubbery
P03G - Grass Cutting
P03R - Tree Trim + Removal
P03B - Building + Utility Maintenance
P03D - Nurseries
P03C - Green Houses

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JUDICIAL & PAROCHIAL 8/1/72 Pg. 7

CODE	DEPARTMENT	TOTAL	WHITE	%	BLACK	%	OTH
	JUDICIAL & PAROCHIAL						
8151	District Attorney	53	43	81.1	10	18.9	
8201	Coroner	37	28	75.7	9	24.3	
8301	Juvenile Court	123	99	80.5	24	19.5	
8351	Municipal Court CJCC	48	48	100	0	0	
8361	Traffic Court	121	97	80.2	24	19.8	
~~8391~~	~~Indigent Defender Prog. - Municipal~~						
8401	4th Circuit Court of Appeals	2	1	50.0	1	50.0	
8421	1st City Court Criers	3	3	100	0	0	
8440	Civil District Court Judges	10	10	100	0	0	
8441	Civil District Court	10	10	100	0	0	
8501	Criminal District Court	40	36	90.0	4	10.0	
8541	Criminal Sheriff - Parish Prison	136	83	61.0	53	39.0	
8551	Criminal Sheriff	92	81	88.0	11	12.0	
8552	Criminal Sheriff	3	1	33.3	2	66.7	

8552	Criminal Sheriff	3	1	33.3	2	66.7
8601	Criminal Dist. Ct.-Clerk's Off.	57	54	94.7	3	5.3
9774	Magistrate Sect - Crim Ct					
8850	Pensions, Retired Judges *	11	11	100	0	0
8520	Deceased Judges Widows					
J500	Magistrate Court.	25	23	92.0	2	8.0
J510	These are First and Second	4	4	100	0	0
J520	City Courts' Administrative	2	2	100	0	0
J530	Codes -- not city funds.	30	30	100	0	0
J540		15	15	100	0	0
J550		5	5	100	0	0
J560		24	21	87.5	3	12.5
J570		49	47	95.9	2	4.1
J580		43	42	97.7	1	2.3

TOTALS 10,303 CITY EMPLOYEES 6,193 WHITE 3,091 BLACK

62.7 % 31.1 %

17 OTHER

0.2 %

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I. Findings and Recommendations Relative to Black Employment in the Police Department

A. *General Statistics*

(1) The percentage of black employment in the police department has increased steadily in the past five years. In May, 1967, blacks represented only 7% (103 out of 1,418 employees) of the total employment of that department. As of 7-31-72, black employment had increased to about 16% of the total (304 out of 1,894 employees). These figures do not include police patrolmen who are scheduled for appointment in summer of 1972, many of whom, hopefully, will be black.

(2) Although the increase of black employment in the police department has been steady since 1967 and is significant in terms of the past, the rate of increase has been less than that of the city's total work force. What is significant also is the fact that most of the increase of black employment in the police department has been in the non-uniformed (i.e., non-commissioned) service. Black employment in the uniformed service has only increased about 1.3% in the last five years. In May, 1967, black employment in the uniformed service was about 3.1% (45 out of 1,174 employees); as of December, 1971, it was 4.4% (81 out of 1,384 employees).

B. *Recruitment*

(1) At present the recruitment (or communication) techniques of both the civil service and police departments are limited to the following:

(a) *Civil Service*—The department publishes an examination announcement which is placed on a bulletin board on the 1st floor of City Hall and which is mailed to every department of city government, to anyone upon request, and to about 150 organizations and individuals in the community who have contact with the public and with job-seekers. The department also advertises the announcement in both the *Times-*

Picayune and the *Louisiana Weekly* in the classified sections and sometimes in articles in the body of the paper. The department does not do any motivational advertising such as display ads, TV spots, etc.

(b) *Police Department*—The police department currently has only one recruiter, attached to the Community Relations Division. His efforts are limited to the visitation of high schools on Career Days and the recruitment of high school students for the cadet program. On Career Days the recruiter generally gives a short talk on the benefits of police service and distributes some motivational literature, written and published in large part by the FBI (which does not enjoy a favorable image in the black community). Aside from these efforts the department does little else in terms of recruitment. It has been demonstrated that minimal efforts at recruitment directed to the predominantly black community via radio only result in a significant increase in the number of black applicants.

(2) Although the recruitment techniques of both the police and civil service departments could be improved, these techniques do not appear to be a major factor in the slow rate of increase of black employment in the uniformed service. From the standpoint of the number of black applications for employment at the patrolman level, these techniques appear to be adequate enough. The number of black applicants for the position of patrolman has increased steadily and significantly since Sept., 1969. At that time, the number of black applications represented approximately 28% of the total applications for the position. Since that time four announcements for the position have been made. In response to each of these announcements the number of black applications increase. At the time of the announcement in November, 1971, black applications represented 45% of the total. The most recent exam announcement, released in June, 1972, resulted in black applications representing 60% of the total submitted.

MEMORANDUM

TO: WILLIAM R. KONRAD, DIRECTOR OF PERSONNEL

FROM: JOHN D. JACKMAN, CHIEF, CLASSIFICATION DIVISION

SUBJECT: THE SEQUENCE OF BLACK/WHITE EMPLOYMENT RATIO IN THE CLASSIFIED SERVICE SINCE MAY 15, 1967

Date of Tabulation	Total Classified Work Force	Annual (Calendar Yr.) % Increase Total Work Force	No. of Blacks In Work Force	In Work Force % of Blacks	Annual (Calendar Yr.) % Increase Black Employees
5/15/67	7,572		1,215	16.0%	
12/31/67	7,859	6.5%	1,271	16.2%	
3/31/68	7,934		1,305	16.5%	
12/31/68	7,935	.97%	1,404	17.7%	18.32%
6/30/69	8,592		1,718	20.0%	
12/31/69	8,219	3.58%	1,601	19.4%	14.03%
6/30/70	8,949		2,030	22.61%	
12/31/70	8,606	4.71%	1,833	21.30%	14.49%
6/30/71	9,116		2,272	24.92%	
12/31/71	9,088	5.60%	2,372	26.10%	29.41%
7/31/72	11,067*		4,115	37.2%	
1/30/73	9,564	5.2%	3,107	32.5%	31%
7/12/73	10,926		4,258	39.0%	

* Excludes approximately 500 Youth Opportunity Program summer employees.

NOTE: Systematically higher annual summer tabulation figures embrace the seasonal recreational and student employment.

CIVIL SERVICE DEPARTMENT

SUBJECT: Additional Data on Black/White Employment in City of New Orleans, Louisiana

UNCLASSIFIED SERVICE:

Total Work Force	Black Male Employees	Black Female Employees	Total Black Employment	% of Blacks In Work Force
745	90	47	137	18.4%

CLASSIFIED SERVICE:

Total Work Force	Black Male Employees	Black Female Employees	Total Black Employment	% of Blacks In Work Force
10,928	2,825	1,433	4,258	39.0%

Excerpts from Verbatim Transcript of Special Council Meeting on Redistricting

Held on February 15, 1972 at 7:00 P.M.

COUNCILMAN JOSEPH W. DI ROSA: Ladies and gentlemen, we are meeting here tonight for a formal hearing. This is not one where we have an invocation and all the rest of the formalities that come up. This is just an open public hearing on redistricting, as such. We want you to know that this is an open hearing only. There will be no voting on anything at this time, and it has been the rule of the Council that we ask that you restrict your speech, if you can, to three minutes, but we allow you five. If it's possible to restrict it to three, we ask that you do so, but we allow five minutes to each speaker. If you have any written statements, we ask that you submit the written statements to us and we'll have them reproduced and give them back to you—give any portion of it back. If you have a statement that will take longer than that to read, we ask that you summarize your statement and give us a copy of the written statement.

MR. ALVIN SARGENT: Gentlemen of the Council. I am representing the Black Political Coalition of New Orleans. I am also Vice Chairman of the SCLC of the local chapter here in New Orleans. I think it was January 20 when our President, Reverend Avery Alexander, did present to this body a plan for SCLC. From this plan represented ideas of a coalition of black leaders from around the City. At that meeting, the first meeting, seoend meetings that we had, it was agreed upon that we would then approach the City Council for the Council to act on a ten-member district and also one member to run at large on a City-wide basis, which would mean that this one member that would be elected, from the City-wide basis, would then through revision of the City Home Rule Charter, become the Vice Mayor of New Orleans and also the President of the City Council. This is the plan that we are endorsing. The Black Political Coalition of New Orleans and also the SCLC.

We are asking and we are submitting to you without all this various technical data that most of you have at hand, we are saying that this is the best plan that we think would be beneficial to New Orleans and its people, because, in our minds and on our plans as what we have come up with, we feel that it would then be truly representative of all the people on the City Council taking in all the ethnic groups of the City. So therefore, we are urging the Council if they would like very much to get with us, we would like to get with you and show you just exactly what we are talking about. We are asking for true representation on the City Council for a ten-member district and one Councilman at Large would then represent the Vice Mayor. This would have to be done, of course, through revision of the Home Rule Charter.

MRS. ORETHA HALEY: Okay. My name is Oretha Haley, and I'm speaking on behalf of the Coalition for Fair Redistricting Plan. I do have copies of the plan I'd like to pass out to you gentlemen at this point.

Gentlemen, we are speaking to you on behalf of several political and civic groups. For the record, the group are the Urban League, Southern Organization for Unified Leadership (SOUL), American Federation of Teachers, Community Organization for Urban Politics, Orleans Educators Association, the Orleans Parish Progressive Voters League, Black Youth for Progress, Black Organization for Leadership Dtvelodpment (BOLD), the Treme Improvement Association, Community Conscience Blacks, Broadmoor Improvement Association, Representatives Dorothy Taylor, Louis Charbonnet, Theodore Marchand, George Connor, and Johnny Jackson.

We submit to you that the City Council as presently structured, five district Councilmen and two at large is inadequate, for the structure does not lend itself to representation of all people. Thus, a redistricting plan on the present basis is unfair.

According to the Municipal Year Book, an authoritative resume of activities and statistical data on American cities, New Orleans has the smallest Council for cities with population upward of 500,000. There is one exception. Columbus, Ohio, has seven Councilmen. However, all seven are elected at large. A survey of cities of 500,000 indicates that the size of City Councils range from nine to fifteen, with the median being twelve. For example, Buffalo-15, Memphis-13, and San Francisco-11, just to mention a few.

When one looks at national trends, the needs of New Orleans, and acceptable criteria for redistricting, it is concluded that an eleven district council would best serve the population of New Orleans. This would mean that Ward Fifteen, Algiers, would be a district by itself. We are submitting this eleven district plan to you after a thorough evaluation of several five districts, two at large plans, as well as several seven districts plans.

Hence, the Coalition for a Fair Redistricting Plan is speaking against the passage of Ordinance Calendar Number 5193, calling an election for approval or rejection by electors of an amendment to the Home Rule Charter to increase the number of District Councilmen from five to seven. Further, we are opposed to Ordinance Calendar Number 5194, redistricting the City of New Orleans.

This eleven-man plan provides for population equality, acknowledgment of the only real, natural boundary New Orleans has, the River, contiguous and compact districts. Also it calls for proportionate representation of all socio-economic segments of the community.

The eleven district plan provides for an ideal population per district of 53,931, with a high population deviation of +3.2 per cent, well below the five per cent deviation that has been generally accepted by the Courts.

Just a final note on cost, I'd like to mention. It would appear on the surface that an eleven district council would be too costly for the City. The fact of the matter is, that we would reduce the cost to the people. While total dollars would increase, the benefits per dollar increase would be significantly higher than the dollar outlay. Citizens would get quality representation with eleven districts that would more than justify the added cost.

Gentlemen, we are fully cognizant of the Charter mandate that the Council must redistrict itself by April. We further understand that in order to meet that mandate, the Council will have to redistrict according to its present five-two structure. However, this is the public hearing concerning redistricting. We feel it is our responsibility to say to you at this time, that that mandate will be inadequate.

Finally, let me comment on the question that some of you may have regarding gerrymandering. Gerrymandering is defined as to divide an area into political units to give special advantages to one group.

The present five-two councilmanic structure is so gerrymandered as to give disproportionate representation to white, middle to upper income groups in the Community.

Thus, we urge you to adopt an ordinance that would enlarge the Council to eleven districts, which would give a fair opportunity/advantage to all segments of the population. You have before you a copy of the plan that we are introducing for your consideration at this time with the population deviations . . .

Councilman Joseph V. Di Rosa: I didn't want to disturb you while you were reading because we had a copy of you text here, but I was going to tell you that you had two minutes. I'll give you a minute to wind up.

Mrs. Oretha Haley: I have finished at this point, except for answering any questions, if you may have any.

Mr. Nils R. Douglas: Sure will. My name is Nils R. Douglas. I'm the Chairman of the Southern Organization for Unified Leadership. As I attempted to record for my own benefit some of the thoughts that I would attempt to suggest and share with you today, it became obvious to me that to appear at a public hearing as a black person representing a portion of the black community, that it was a kind of ridiculous notion, that it's ridiculous from the standpoint that all black people share the same goals with reference to the question that's before us and all white

people, particularly members of the City Council of any City or any political group, ought to know, if they don't know, what aspirations of the black people in the United States are. If, perchance, there is anyone present who doesn't know why we are here, we are here to change the color of the members who are presently sitting as Councilmen and Councilmen at Large.

It may be paradoxical for me to stand here and to suggest to you that you are to vote for something that may result in your not being here the next time a vote is taken. But, I'm sure that for all of us who are aware of what the Constitutional process in America is all about, we would choose to do it by ballot, rather than do it by bullet. And this is not a threat. This is merely dealing with the subject from what I consider to be a realistic point of view. One of the genuises of the American Constitutional system, and indeed the legislative system of America, is the fact that it's a flexible document, it's a flexible institution. It can expand and it can contract.

I'm saying to you that the present posture of the Constitution of the City Council of the City of New Orleans is not adequate to deal with the needs. It's totally inadequate and unsatisfying to deal with the wants of the black people of the community of the City of New Orleans. I'm saying to you that there must be a drastic change in the Constitution, the racial constitution, of the Council of the City of New Orleans. This is a public hearing and a public hearing is the time for words. However, there will be a time when words will no longer be appropriate and we will have to use other methods, abbeit methods within the framework of the governmental institutions of the City and the State, whereby we can make known through other means our dissatisfaction.

Let me close by saying that the people that I claim to represent wholeheartedly endorse the eleven-man plan, the plan which I call the Haley-Rochon plan, for the redistricting of the Council of the City of New Orleans. Any questions you have, refer to Mrs. Haley and Mr. Rochon, the authors of the plan. Thank you.

MR. REVIUS ORTIQUE: I'm Revius Ortique. I represent the Citizens Participation Committee of the Urban League, and I fashioned my representation along those lines, because . . .

COUNCILMAN JOSEPH V. DI ROSA: Excuse me just a minute. Did you give your name and affiliation into the microphone? I don't believe you did, did you?

MR. REVIUS ORTIQUE: The Urban League of New Orleans, of course, cannot lobby any particular bill. However, the Urban League is very interested in the citizens becoming fully aware of their responsibility to their City government and the City government's responsibility to them.

I'm sure each of the Councilmen recognize that the City of New Orleans is rapidly becoming a City with a strong black potential. I'm sure each of the Councilmen recognize that this Council, as well as all governments in this country, favor people working within the system to bring about systematic change. The change has to be reflective of the people who constitute that governmental body. I need not remind you that the latest official census reports indicate that 46.3% of the population of the City of New Orleans is black. It is not surprising, therefore, that black people have aspirations to sit on the City Council and sit in a meaningful manner. It is the position of the Community Participation Committee that certain criteria ought to be developed in order to determine what type of Council the City of New Orleans should have. This criteria reflects itself in a conviction that the City of New Orleans needs and must have an increase in the number of Councilmen.

As Mrs. Haley has indicated, New Orleans is out of step with other cities of similar size. Most cities of our size have Councilmen in much larger numbers.

Secondly, it is imperative that the City of New Orleans have a Council that truly represents the people. It we are 46.3% of the population, then we feel that we ought to have something in terms of numbers of Councilmen who would properly reflect that type of representation.

We would, therefore, urge the Council to consider seriously the eleven-man council that has been proposed here tonight. We think that this type of council will truly represent the people, will give proper representation to districts, like the Algiers district, and at the same time, will let the people of the City of New Orleans know that this Council, this Council is willing to support a plan that will truly represent them.

Let me say in my last two minutes, Mr. President, that I think, personally, that this Council will want to do its work. It seems to me that it is not an appropriate tack to insist that courts do the work for us. It's not an appropriate tack that we commit people to resort to systems changes outside of what we think of as orderly constitutional government. It will be my hope that you gentlemen, with insight and foresight for the City of New Orleans, would recognize that it is inevitable that the constitutnecy of the City of New Orleans will demand that they have a larger Council and a more representative Council, and that this Council will want to do its work within the system and not have someone else tell you that you did an improper thing that you must now comply with an edict from some other body. It's your place as a citizen.

As a representative of the Urban League Citizens Participation Committe, I urge you to do that which is best for New Orleans and we say that which is best is the eleven-man council, affording greater opportunity for all of the people of the City of New Orleans. Thank you.

MRS. DOROTHY TAYLOR: Mrs. Dorothy Taylor, State Representative, District 93. Like Mr. Smith, who mentioned the problem he had, I'd like to say that every black person in the City of New Orleans has a problem. And that problem is lack of representation—lack of representation right here in our City Council Chambers, where we constitute 46.3 of the total population, but yet, not one black on our City Council. I wholeheartedly support the plan submitted by the Coalition for a Fair Redistricting, and I urge you, as the elected Councilmen, who are supposed

to be representing black folks throughout the City of New Orleans, to give it a second thought, and to review this plan very carefully. And we will be watching you as to how you cast your vote for this particular eleven-member plan.

Mr. Robert Collins: My name is Robert Collins. I'm the President of the Community Organization for Urban Politics. I speak on behalf of the eleven-member plan as proposed by the Coalition for a Fair Redistricting. We feel that certainly New Orleans is out of step with the times in terms of the type of representation we have on the City Council. Even—not even going out of the State of Louisiana—even with reference to other cities—other towns and cities in our State have done, we're out of step with the times. Crowley, Louisiana has black representatives on its City Council; Baton Rouge, Louisiana has black representatives on its City Council. But, yet, we with 46 per cent plus blacks still do not have a black person sitting to make laws for our City. Now, it's been said, and I think it's becoming more and more of a truism in terms of politics for blacks. We view the political structure from the new and evolving viewpoint. We have no permanent enemies. We have no permanent friends. We have only permanent interests. And we are permanently concerned about fair and equal representation in terms of government and we intend to settle for nothing less. Now, the failure of this Council to fairly redistrict, and as far as I'm concerned, fair redistricting requires not less than an eleven-member plan, particularly in view of what Algiers wants, what blacks want, what Uptown wants, and Downtown, et cetera. I think you—there's been a lot of studies made, and I think that only if eleven—only an eleven-member plan can satisfy all of competing interests, not only blacks, and not only whites, but also of all the various socio-economic, ethnic, et cetera, groups that have to be satisfied in this community. I think that when you take all this into consideration, a fair and equitable plan is an eleven-member plan. And I'd like to urge and beg

this Council to seriously consider this plan, because there's a final note that's been touched upon before—as a lawyer, I always like to think about this—failure of this Council to fairly redistrict will obviously and inevitably result in legal action being taken. There's no question about that in my mind. Thank you, gentlemen.

Mr. Louis Charbonnet: I'm Representative-elect Louis Charbonnet from District 96. I'm speaking on behalf of the people that I represent in District 96 and the black community. I say Representative-elect because this is the proper title, but I'd like to say at this time, just to refresh Councilman Ciaccio's memory in some cases, the only reason why I'm standing up here as a Representative-elect is because of reapportionment that allowed black people to be properly represented, and this is what we are asking the Council to do here when they deliberate on councilmanic reapportionment. We are asking you to give black people of this community and minority groups, a chance to represent themselves and to govern themselves.

Now, you said some things about a certain district about, you know, how much money—50 this and 50 that—I say in District C that we have never been represented, the same as we've never been represented in District 96, as far as the City Council goes. And we want a new representative and we want a representative that will represent the entire people, all of the people of any district that the Council sets up.

I'm here to say that I'm favor of the eleven-man district submitted by the Coalition. My understanding is that certain areas of the city will be grouped together in the locales that best fit them. We feel that Algiers will be a unit and we also feel that the lines run, I think Mrs. Haley will explain them, that they do not cross any precinct lines and they do follow some of the general lines of the redistricting of the legislature.

I urge the Council to consider these plans. Look at them very carefully and you will find that they stay within the guidelines set up by the federal Government. And we

ask the Council not to go into the turmoil that the State went into to be forced to redistrict itself. Do your job. Redistrict the Council that it will represent all of the eleven-man plan and you'll be considering the plan that's voted on by the people. Thank you.

MR. BOB MC FARLAND: Thank you, Councilman DiRosa. My name is Bob McFarland. I'm a member of the Black Louisiana Action Committee, District two which is the second congressional district and I'm here to represent my views . . .

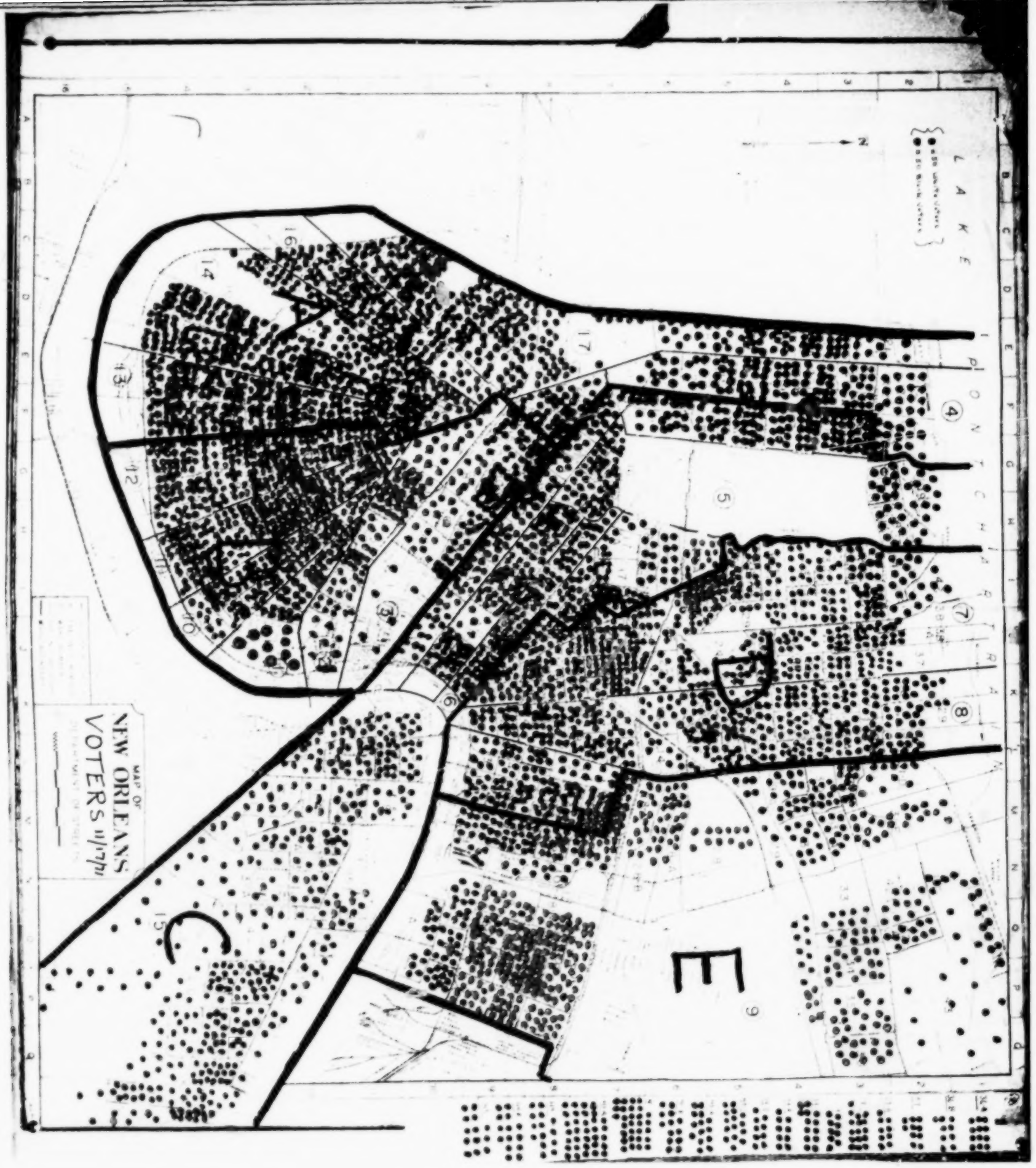
COUNCILMAN JOSEPH V. DI ROSA: Just give your address, Bob. Will you please. Your address.

MR. BOB MCFARLAND: My address is 7930 Cohn Street. I'm here to represent my views on the whole issue of reapportionment. Number one, this City is somewhere in the neighborhood of fifty percent black. I think that it's ridiculous for you gentlemen on the Council or any of us who are really supposed to be true about having real representation in government to talk about maintaining a Council that is still all white. I know that Councilman Moreau said that one of his objections to increasing the Council so that it would have black majority districts is that he didn't want to polarize the Council, but I submit to you that the Council is already polarized because there is seven gentlemen up there and all of you are white and this city is almost fifty percent black. So the Council is already polarized.

Number two, we got a seven-member Council right now, five districts which in the present situation, there's no possibility of a black person being elected. I think that's ridiculous. I think that any councilman, present councilman, who is really about the business of really having representative government should also agree that that is ridiculous.

I know that I've heard some plans about including the Jefferson Council and including the St. Bernard Council and all kinds of other Councils. Everything but including

black people, you know, into power. My position here is, I'm in support of the eleven-member Council as represented by the SCLC. I think that early in the game the SCLC came together, invited members of the black community and everybody who was interested in participating, to come up with a plan that would be acceptable to the masses of black people in this City. I think that they have a plan, a plan that represents that situation and (copy here is illegible) . . . . . gentlemen on the Council would give strong consideration to that plans, because it represents a means by which black people can really be represented in this government, if this is really what we are about the business of. Thank you.



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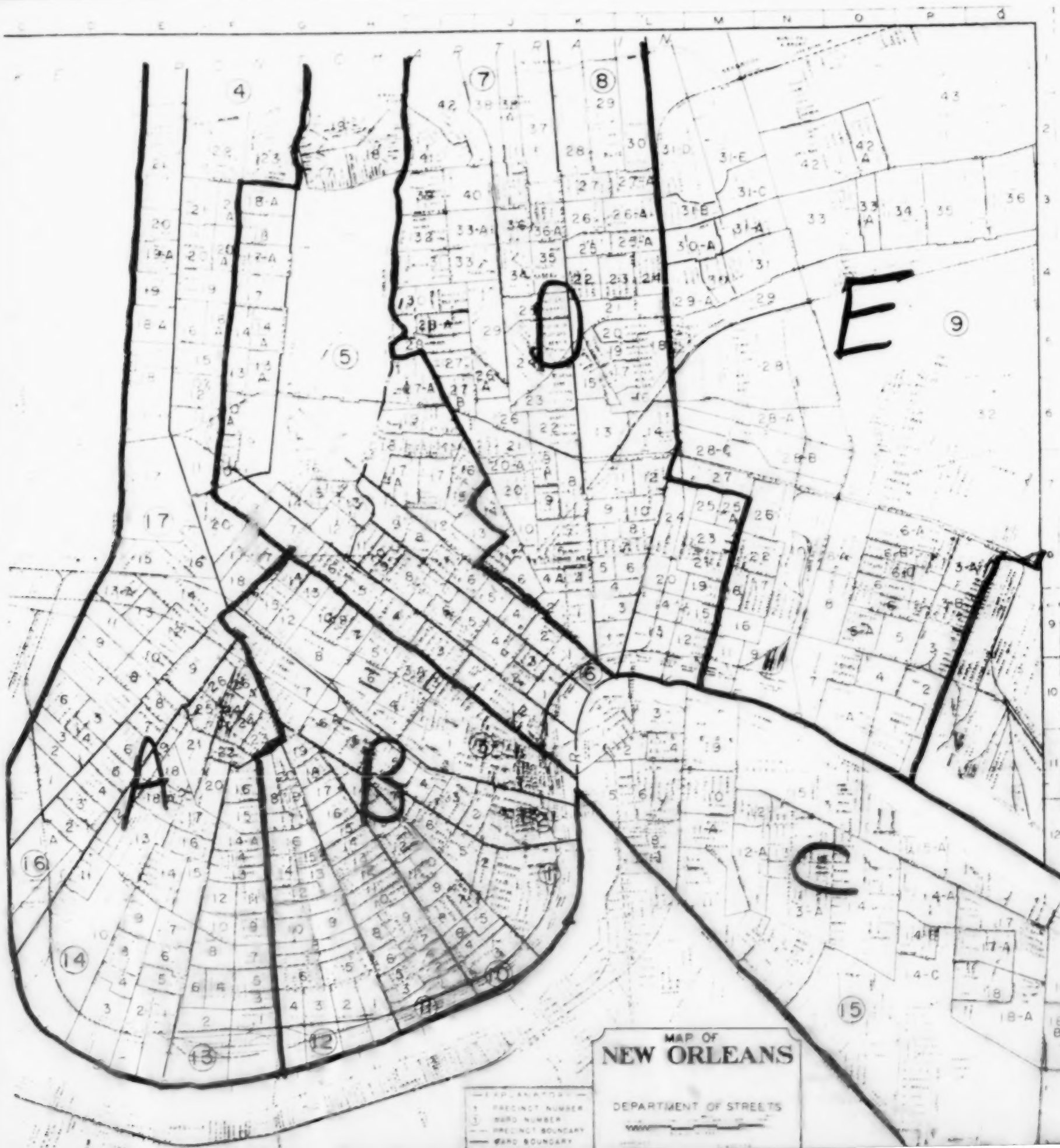

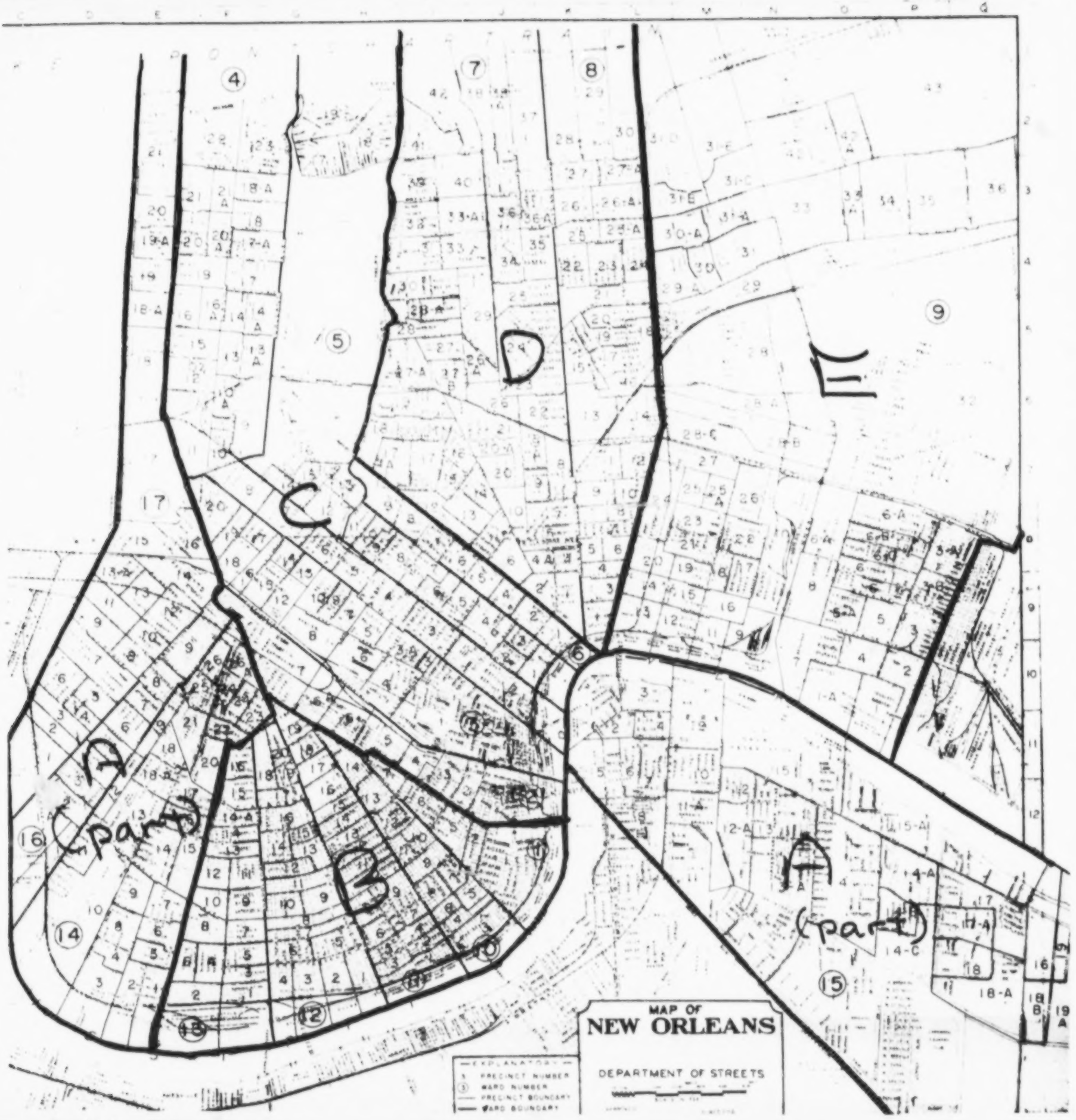
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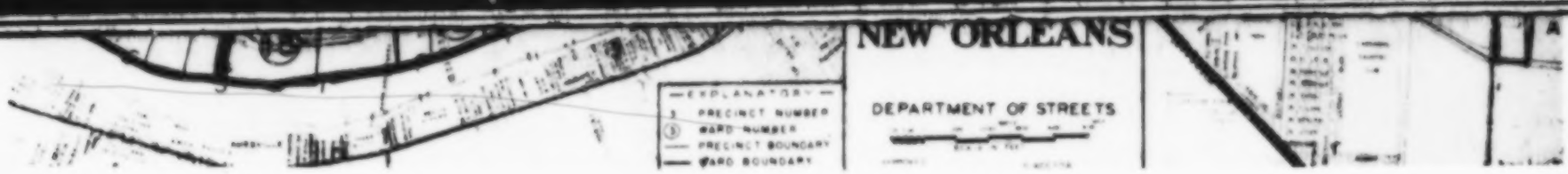


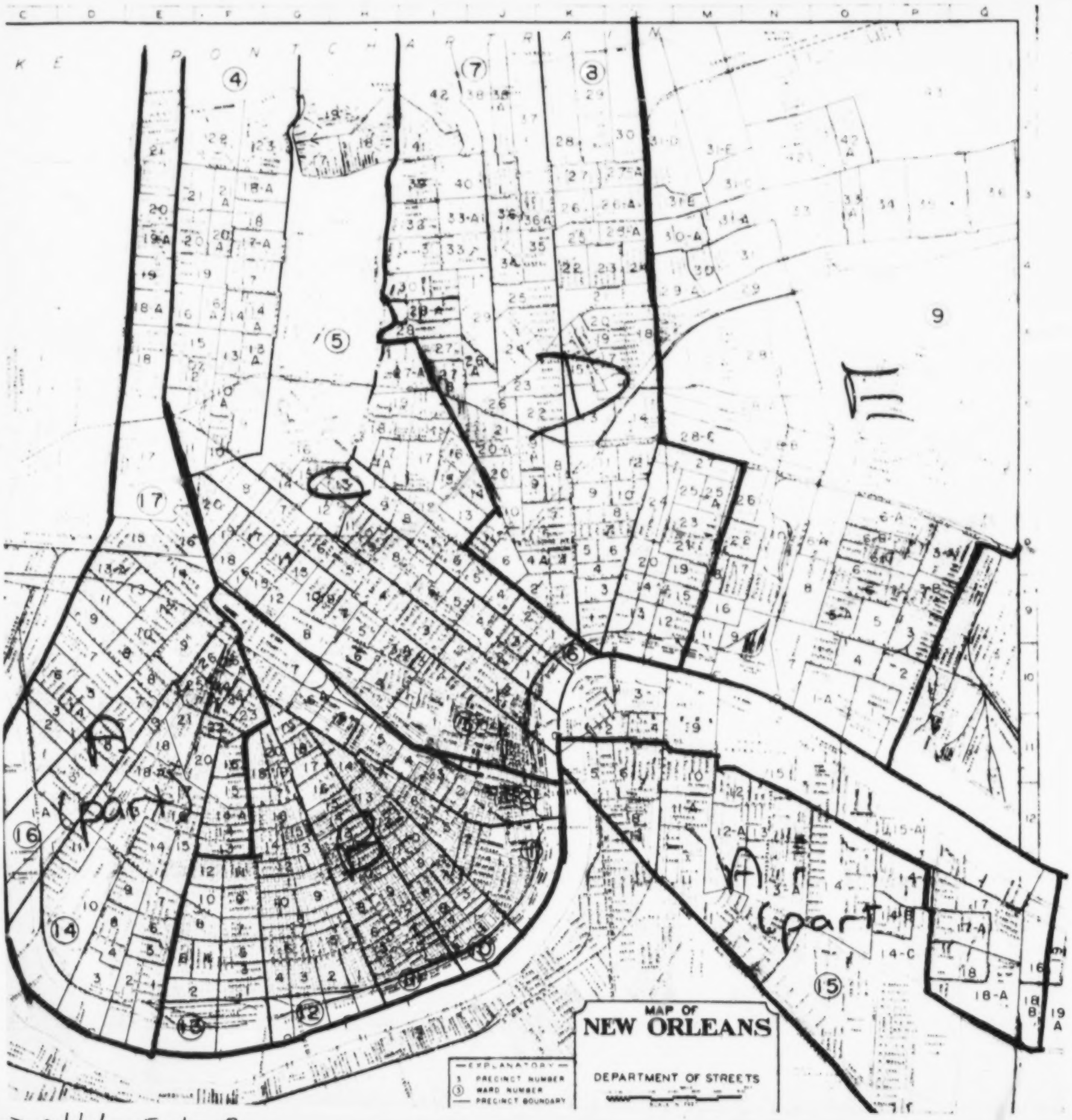
Dfdt's Exh. 2

1961 REDISTRICTING PLAN*

District	Population Total	Deviation	Black	%Black
A	134,613	+13.4%	42,521	31.6
B	108,769	-8.4%	67,600	62.2
C	100,811	-15.1%	40,544	40.2
D	114,367	-3.6%	50,029	43.7
E	134,911	+13.7%	66,604	49.4
Total	593,471		267,298	45.0

District	Registered voters Total	Black	%Black
A	61,048	13,830	22.7
B	39,266	19,723	50.2
C	41,844	10,304	24.6
D	48,546	17,615	36.3
E	51,694	22,111	42.8
Total	242,398	83,583	34.5

*Statistics calculated by the City of New Orleans, letter of May 9, 1973.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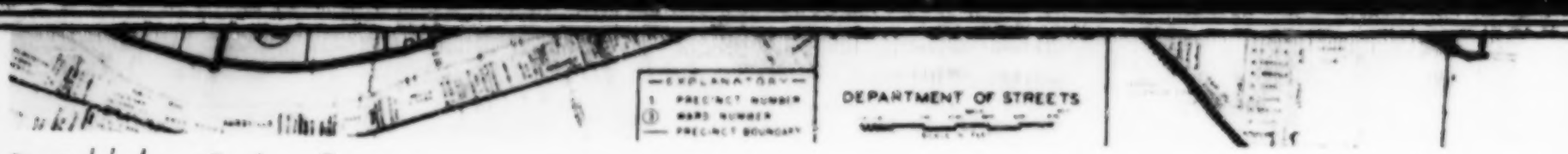


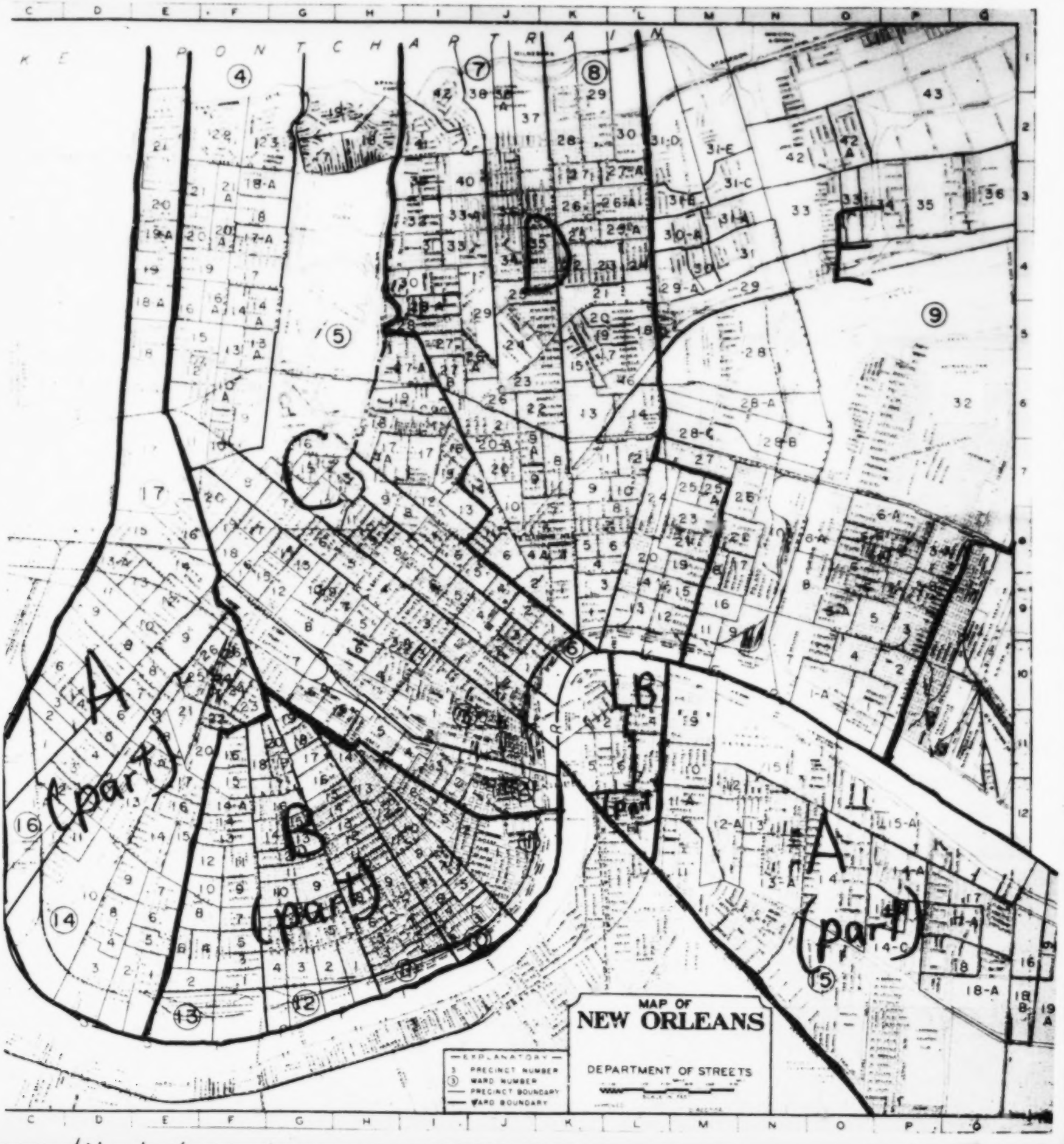
Dfdt.'s Exh. 3

MOREAU'S ORIGINAL REDISTRICTING PLAN
PROPOSED JANUARY 13, 1972 */

District	Population Total	Deviation	Black	%Black
A	120,034	+1.1	43,512	36.2
B	117,937	-0.6	77,965	66.1
C	119,332	+0.5	35,242	29.5
D	119,820	+0.9	53,185	44.4
E	116,351	-2.0	57,397	49.3
Total	593.474		267.301	45.0

District	Registered voters Total	Black	%Black
A	53,421	13,443	24.1
B	42,513	22,443	52.8
C	53,965	9,641	10.8
D	50,643	17,592	30.4
E	44,239	17,845	40.0
Total	244,781	80,964	33.1

* Population calculated by the Department of Justice from precinct statistics prepared by the Bureau of Governmental Research in New Orleans. Registration calculated from April, 1972 statistics from the city.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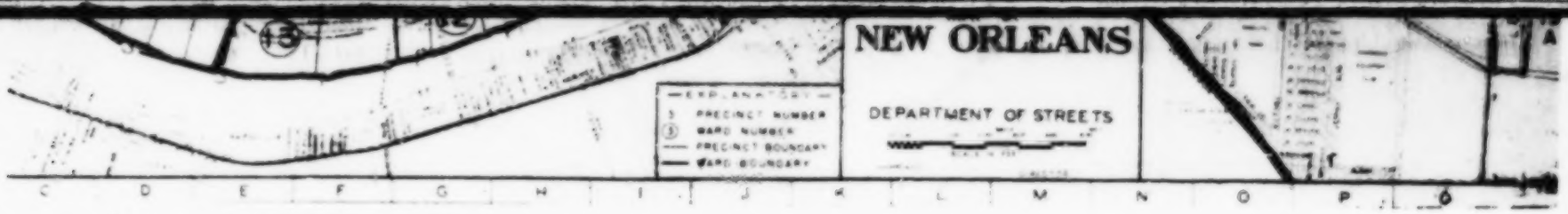


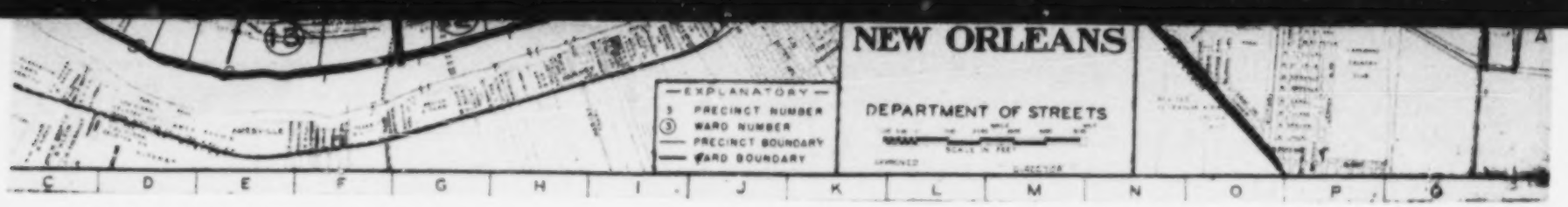
Dfdt's Exh. 4

1972 REDISTRICTING PLAN *
ORDINANCE 4796 M.C.S.

District	Population---------- Total	Deviation	Black	%Black
A	120,751	+1.7%	37,954	31.4
B	116,645	-1.7%	68,547	58.8
C	118,243	-0.4%	48,958	41.4
D	118,300	-0.3%	51,409	43.5
E	119,532	+0.7%	60,438	50.6
Total	593,471		267,306	45.0

District	Registered voters---------- Total	Black	%Black
A	53,859	11,558	21.5
B	44,257	20,012	45.2
C	49,908	12,683	25.4
D	49,964	16,826	33.7
E	44,216	18,134	41.0
Total	242,204	79,213	32.7

* Statistics calculated by the City of New Orleans, letter of May 4, 1972.



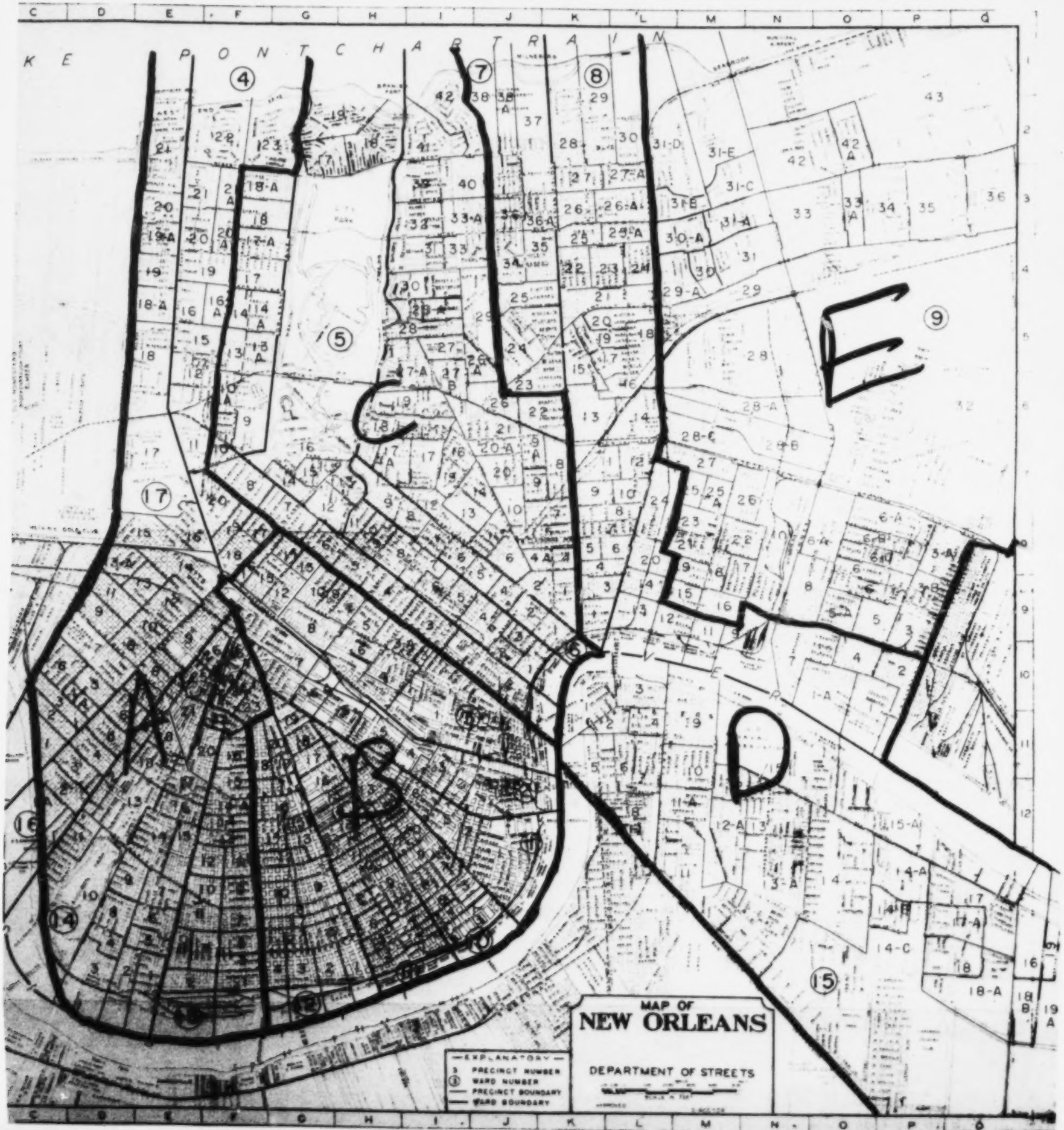
Dfdt's Exh. 5

1973 REDISTRICTING PLAN */
ORDINANCE 5154 M.C.S.

District	Population Total	Deviation	Black	%Black
A	117,901	-0.7%	36,665	29.1
B	118,678	0.0%	76,109	64.1
C	119,023	+0.3%	42,651	35.8
D	118,337	-0.3%	51,447	43.5
E	119,532	+0.7%	60,437	50.6
Total	593,471		267,308	45.0

District	Registered voters Total	Black	%Black
A	57,387	12,964	22.6
B	39,870	20,976	52.6
C	49,756	11,606	23.3
D	49,505	18,223	36.8
E	45,898	19,819	43.2
Total	242,416	83,588	34.5

*Statistics calculated by the City of New Orleans, letter of May 9, 1973.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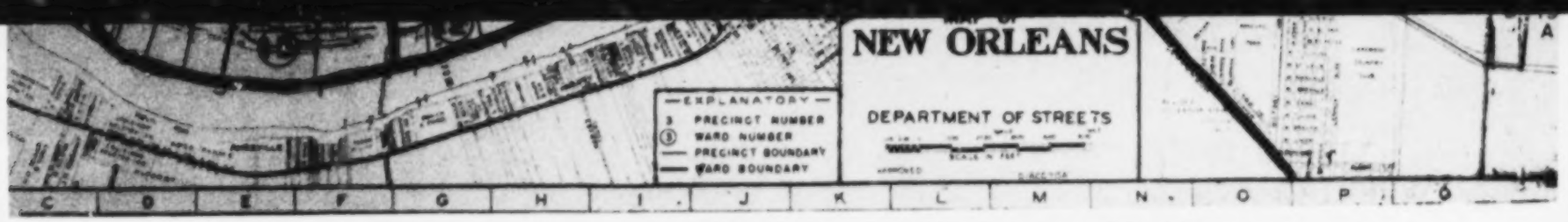

Dfdt's Exh. 6

REDISTRICTING PLAN PROPOSED BY
NEW ORLEANS CHAPTER, NAACP */

	Population			
District	Total	Deviation	Black	%Black
A	117,901	-0.7%	36,665	29.1
B	118,678	0.5%	76,109	64.1
C	119,676	+0.8%	62,756	52.4
D	118,120	-0.5%	28,022	23.7
E	119,096	+0.3%	63,756	53.5
Total	593,471		267,308	45.0

	Registered voters		
District	Total	Black	%Black
A	57,387	12,964	22.6
B	39,870	20,976	52.6
C	48,204	19,210	39.9
D	50,667	9,171	18.1
E	46,270	21,267	46.0
Total	242,398	83,588	34.5

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* Statistics calculated by the City of New Orleans, letter of May 31, 1973, from Councilman Sapir.

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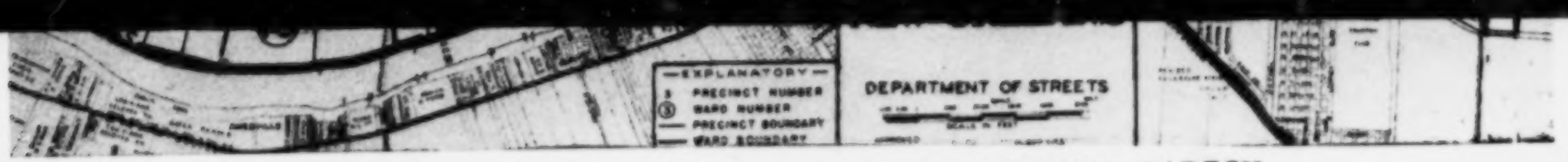

Defendant's Exhibit 7

REDISTRICTING PLAN PROPOSED BY ORLEANS PARISH REPUBLICAN POLITICAL ACTION COUNCIL */

District	Population Total	Deviation	Black	%Black
A	119,531	+0.7%	42,397	35.5
B	117,638	-0.9%	88,504	75.2
C	117,894	-0.7%	26,865	22.8
D	117,016	-1.4%	78,207	66.8
E	121,330	+2.2%	31,379	25.9
Total	593,409		267,352	45.0

District	Registered voters Total	Black	%Black
A	53,401	13,880	26.0
B	39,024	24,734	60.8
C	53,392	7,307	13.7
D	38,467	24,373	63.4
E	58,109	13,189	22.7
Total	242,393	83,483	34.4

* Population statistics calculated by the Department of Justice from precinct population figures supplied by the New Orleans Bureau of Governmental Research. Registration statistics supplied by the Republican Political Action Council.